

VOLUME 9
1984 RCW SUPPLEMENT

1983
REVISED CODE OF WASHINGTON

Published under authority of chapter 1.08 RCW.

I. SCOPE OF SUPPLEMENT

This volume supplements the 1983 edition of The Revised Code of Washington by adding thereto the following materials:

1. All laws of a general and permanent nature enacted in the 1984 regular session (adjourned sine die March 8, 1984) of the forty-eighth legislature.
2. Rules of Court promulgated prior to June 30, 1984.
3. Appropriate supplementation of the various tables and general index.

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REVISED CODE OF WASHINGTON
1984 Supplement

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CERTIFICATE

This 1984 supplement of the 1983 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with RCW 1.08.037, certified to comply with the current specifications of the committee.

(signed)
ROBERT L. CHARETTE, Chairman,
STATUTE LAW COMMITTEE

CONSTITUTION OF THE STATE OF WASHINGTON

Amendment

No.

- 74 Art. 2 §43 Redistricting.
Art. 2 § 3 The census. (Repealed.)
Art. 2 §13 Representative in Congress. (Repealed.)

AMENDMENT 74

Article 2 was amended by adding the following section:

Art. 2 § 43 REDISTRICTING. (1) In January of each year ending in one, a commission shall be established to provide for the redistricting of state legislative and congressional districts.

(2) The commission shall be composed of five members to be selected as follows: The 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. By January 31st of each year ending in one, the four appointed members, by an affirmative vote of at least three, shall appoint the remaining member. The fifth member of the commission, who shall be nonvoting, shall act as its chairperson. If any appointing authority fails to make the required appointment by the date established by this subsection, within five days after that date the supreme court shall make the required appointment.

(3) No elected official and no person elected to legislative district, county, or state political party office may serve on the commission. A commission member shall not have been an elected official and shall not have been an elected legislative district, county, or state political party officer within two years of his or her appointment to the commission. The provisions of this subsection do not apply to the office of precinct committee person.

(4) The legislature shall enact laws providing for the implementation of this section, to include additional qualifications for commissioners and additional standards to govern the commission. The legislature shall appropriate funds to enable the commission to carry out its duties.

(5) Each district shall contain a population, excluding nonresident military personnel, as nearly equal as practicable to the population of any other district. To the extent reasonable, each district shall contain contiguous territory, shall be compact and convenient, and shall be separated from adjoining districts by natural geographic barriers, artificial barriers, or political subdivision boundaries. The commission's plan shall not provide for a number of legislative districts different than that established by the legislature. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.

(6) The commission shall complete redistricting as soon as possible following the federal decennial census, but no later than January 1st of each year ending in two. At least three of the voting members shall approve such a redistricting plan. If three of the voting members of

the commission fail to approve a plan within the time limitations provided in this subsection, the supreme court shall adopt a plan by April 30th of the year ending in two in conformance with the standards set forth in subsection (5) of this section.

(7) The legislature may amend the redistricting plan but must do so by a two-thirds vote of the legislators elected or appointed to each house of the legislature. Any amendment must have passed both houses by the end of the thirtieth day of the first session convened after the commission has submitted its plan to the legislature. After that day, the plan, with any legislative amendments, constitutes the state districting law.

(8) The legislature shall enact laws providing for the reconvening of a commission for the purpose of modifying a districting law adopted under this section. Such reconvening requires a two-thirds vote of the legislators elected or appointed to each house of the legislature. The commission shall conform to the standards prescribed under subsection (5) of this section and any other standards or procedures that the legislature may provide by law. At least three of the voting members shall approve such a modification. Any modification adopted by the commission may be amended by a two-thirds vote of the legislators elected and appointed to each house of the legislature. The state districting law shall include the modifications with amendments, if any.

(9) The legislature shall prescribe by law the terms of commission members and the method of filling vacancies on the commission.

(10) The supreme court has original jurisdiction to hear and decide all cases involving congressional and legislative redistricting.

(11) Legislative and congressional districts may not be changed or established except pursuant to this section. A districting plan and any legislative amendments to the plan are not subject to Article III, section 12 of this Constitution. [1983 Substitute Senate Joint Resolution No. 103. Approved November 8, 1983.]

Art. 2 § 3 THE CENSUS. [Repealed by 1983 Substitute Senate Joint Resolution No. 103. Approved November 8, 1983.]

Art. 27 § 13 REPRESENTATION IN CONGRESS. [Repealed by 1983 Substitute Senate Joint Resolution No. 103. Approved November 8, 1983.]



RULES OF COURT

(From September 1, 1983 to June 30, 1984)

Adopted by the Supreme Court of the State of Washington

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This 1984 RCW Supplement to the Rules of Court sets forth the revisions to rules adopted by the Supreme Court from September 1, 1983 to June 30, 1984. A list of these orders is set forth below.

Additions and deletions in the amended rules are indicated by underlining and lining out respectively unless the entire rule is new. When only a portion of a rule is affected, only that portion is set forth. See pages 121 through 466 of Volume 0 of the 1983 Revised Code of Washington for the original text of the rule affected.

Orders of the Supreme Court:

- (1) October 10, 1983, the Supreme Court amended APR 12(b)(2)(x), to read as set forth below, effective October 28, 1983;
- (2) November 3, 1983, the Supreme Court amended GR 10(b), to read as set forth below, effective November 11, 1983;
- (3) January 4, 1984, the Supreme Court amended SAR 4, to read as set forth below, effective January 20, 1984;
- (4) April 2, 1984, the Supreme Court abrogated the existing JCrR 3.08 and adopted a new JCrR 3.08 as set forth below. The effective date of the abrogation and adoption is April 13, 1984;
- (5) May 4, 1984, the Supreme Court amended GR 10(a) to read as set forth below, effective May 25, 1984;
- (6) May 25, 1984, the Supreme Court adopted RAP 18.15, as set forth below, effective July 1, 1984;
- (7) May 25, 1984, the Supreme Court adopted CrR 2.1(f) and amended CrR 4.2, 7.1, 7.2, and 7.3, as set forth below, effective July 1, 1984. Additions and deletions in the amended rules are indicated by underlining and striking through respectively except in CrR 7.1 and 7.2 which are totally rewritten. The comments have not been verified or adopted by the Court, but are included herein at the Court's direction;
- (8) June 14, 1984, the Supreme Court adopted RAP 18.14 and a complete new set of Justice Court Civil Rules, and amended GR 9, APR 1 through 10, RAP 15.4(d), RAP 17.1, CR 50(b), CR 59, CR 80, MAR 1.2, SPR 98.16W(d), CrR 6.2, CrR 7.4, and CrR 7.6. Additions and deletions in the amended rules are indicated by underlining and lining out respectively unless the entire rule is new.

The adoptions and amendments are effective September 1, 1984; and

- (9) June 19, 1984, the Supreme Court amended CPR DR 9-102 to read as set forth below. Additions and deletions in section (A) are indicated by underlining and lining out respectively. The entire section (C) is new. Note that the effective date of this rule is January 1, 1985.

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Notation of Revisions: When the full text of each rule is set forth, this is noted by the word "RULE" preceding the rule number. If only a subpart of the rule is set forth, then the abbreviation used for that set of rules precedes the number of the subpart of the rule, e.g., GR 10(a), APR 12(b)(1)(x), etc.

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RULE 9

SUPREME COURT RULEMAKING PROCEDURE

(a) **Statement of Purpose.** In promulgating rules of court it is the purpose of the Washington State Supreme Court to ensure that:

- (1) An orderly and uniform procedure is followed;
- (2) All interested groups are given notice and an opportunity to express views regarding proposed rules;
- (3) Adequate notice of adopted rules changes and of the effective dates is given;
- (4) All proposed rules are necessary statewide;
- (5) Rules changes are minimized to prevent disruption of court practice;
- (6) The purpose of rules of court is to provide necessary governance of court procedure and practice; and
- (7) All rules of court are clear and definite in application.

(b) **Definitions.** As used in this rule, the following terms have these meanings:

- (1) "Suggested rule change" means a recommendation for a rule change or a new rule to the Chief Justice.
- (2) "Proposed rule" means a recommendation for a rule change made by the ~~Judicial Council or by the Washington State Bar Association~~ to the Washington State Supreme Court.

(c) **Initiation of Rules Changes.** All suggestions for rules changes shall be sent to the Chief Justice who shall transmit them to the ~~Judicial Council and to the Washington State Bar Association~~, except suggestions for a change in the Code of Professional Responsibility, the Admission to Practice Rules or the Disciplinary Rules shall be transmitted only to the Bar.

Any group or association whose members are involved in the court system may file a request with the Chief Justice to receive copies of suggested rule changes. The request may specify that the group or association wishes to receive copies of all suggested rule changes or of only certain kinds of suggested rule changes. The request shall state the person to whom the suggested rule change should be sent. Once filed, the request shall be a continuing one until withdrawn by the group or association.

(d) **Receipt of Proposed Rules by Supreme Court.** Once a suggested rule has been approved by the ~~Judicial Council or by the Washington State Bar Association~~, it shall be transmitted as a proposed rule to the Chief Justice.

The text of all proposed rules shall be typed on 8 1/2 by 11-inch line-numbered paper with consecutive page numbering. If the proposed rule affects an existing rule, deleted portions shall be shown and stricken through; new portions shall be underlined once.

Every proposed rule shall be accompanied by a cover sheet explaining:

- (1) **Background**—what person or group initiated the rules change study and the reason for the request;
- (2) **Purpose**—the purpose of and the necessity for the proposed rule including whether it creates or resolves any conflicts with statutes, case law, or other court rules;
- (3) **Judicial Council or Washington State Bar Association Action**—a summary of the viewpoints expressed during the development of and debate over the proposed rule;
- (4) **Supporting Material**—a table of contents listing the material sent to the Supreme Court in support of the proposal including letters, memoranda, minutes of meetings, or research studies;

(5) **Spokesperson**—a designation of the person who is knowledgeable about the proposed rule and who could provide additional information to the Supreme Court;

(6) **Hearing**—whether a hearing is recommended.

All proposed rules must be received by the Supreme Court on or before October 31 to be effective for the succeeding September 1.

(e) **Action by Supreme Court.** If a proposed rule is amended or rejected by the Supreme Court, the ~~Judicial Council and the Washington State Bar Association~~ will be notified in writing. If a proposed rule is approved, the Supreme Court will order the proposed rule published for comment.

The Supreme Court may invite persons familiar with the rule to provide additional information.

(f) **Publication for Comment.** All proposed rules approved by the Supreme Court for publication will be published for comment in a Washington Reports advance sheet during the month of January.

All comments shall be directed to the Chief Justice and shall be received no later than the last day of April. If a comment contains a draft of a rule, it must be in the format outlined in 9(d).

All comments received will be kept on file in the office of the clerk of the court for public inspection and copying.

(g) **Final Adoption, Publication, and Effective Date.** After the comment period, the Supreme Court will adopt, amend, or reject a proposed rule or take such other action as the court deems appropriate.

Prior to action by the Supreme Court, the court may, in its discretion, hold a hearing on a proposed rule at a time and in a manner defined by the court.

All adopted rules shall be published the first of July in a special edition of the Washington Reports advance sheet.

All adopted rules shall become effective the first day of September unless an emergency as determined by the Supreme Court necessitates a different effective date.

(h) **Periodic Review.** The Supreme Court, in consultation with the ~~Judicial Council and the Washington State Bar Association~~, will establish procedures for the periodic review of the rules of court.

(i) **Miscellaneous Provisions.** This rule is effective on March 19, 1982, and applies to all proposed rules changes not adopted by the Supreme Court by that date.

The Supreme Court, in its discretion, may adopt, amend, or rescind a rule without following the procedures set forth in this rule.

GR 10(a)

ETHICS ADVISORY COMMITTEE REGARDING ADVISORY OPINIONS ON JUDICIAL CONDUCT

(a) The Chief Justice shall appoint an Ethics Advisory Committee consisting of seven members, ~~each to serve a 2-year term.~~ Of the members first appointed, four shall be appointed for 2 years, and three shall be appointed for 3 years. Thereafter, appointments shall be for a 2-year term. One member shall be appointed from the Court of Appeals, two members from the superior

courts, two members from the courts of limited jurisdiction, one member from the Washington State Bar Association, and the Administrator for the Courts. The Chief Justice shall designate one of the members as chairman. The committee (1) is designated as the body to give advice with respect to the application of the provisions of the Code of Judicial Conduct to officials of the Judicial Branch as defined in article 4 of the Washington Constitution and (2) shall from time to time submit to the Supreme Court recommendations for necessary or advisable changes in the Code of Judicial Conduct.

GR 10(b)

(b) Any judge may in writing request the opinion of the committee. Compliance with an opinion issued by the committee shall be considered as evidence of good faith by the ~~Judicial Qualifications Commission and the~~ Supreme Court.

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DR 9-102 PRESERVING IDENTITY OF FUNDS AND PROPERTY OF A CLIENT

(A) All funds of clients paid to a lawyer or law firm, ~~other than including~~ advances for costs and expenses, shall be deposited in one or more identifiable interest-bearing bank trust accounts maintained as set forth in CPR DR 9-102(C), in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

(C) Each trust account referred to in CPR DR 9-102(A) shall be an interest-bearing trust account in any bank, credit union or savings and loan association, selected by a lawyer in the exercise of ordinary prudence, authorized by federal or state law to do business in Washington and insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, the Washington Credit Union Share Guaranty Association, or the Federal Savings and Loan Insurance Corporation, or which is a "qualified public depository" as defined in RCW 39.58.010(1). Interest-bearing trust funds shall be placed in accounts in which withdrawals or transfers can be made without delay when such funds are required, subject only to any notice period which the depository institution is required to reserve by law or regulation.

(1) A lawyer who receives client funds shall maintain a pooled interest-bearing trust account for deposit of client funds that are nominal in amount or expected to be held for a short period of time. The interest accruing on this account, net of any transaction costs, shall be paid to The Legal Foundation of Washington, as established by the Supreme Court of Washington. A lawyer may, but shall not be required to, notify the client of the intended use of such funds.

(2) All client funds shall be deposited in the account specified in subsection (1) unless they are deposited in:

(a) A separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(b) A pooled interest-bearing trust account with sub-accounting that will provide for computation of interest earned by each client's funds and the payment thereof to the client.

(3) In determining whether to use the account specified in subsection (1) or an account specified in subsection (2), a lawyer shall consider only whether the funds to be invested could be utilized to provide a positive net return to the client, as determined by taking into consideration the following factors:

(a) The amount of interest that the funds would earn during the period they are expected to be deposited;

(b) The cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client's benefit; and

(c) The capability of financial institutions to calculate and pay interest to individual clients.

(4) As to accounts created under subsection (C)(1), lawyers or law firms shall direct the depository institution:

(a) To remit interest or dividends, net of any service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to The Legal Foundation of Washington (the Foundation);

(b) To transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing lawyer or law firm.

(5) The Foundation shall prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes, and any problems arising in the administration of the program established by section (C) of this rule.

(6) The provisions of section (C) shall not relieve a lawyer or law firm from any obligation imposed by these rules with respect to safekeeping of clients' funds, including the requirements of section (B) that a lawyer shall promptly notify a client of the receipt of his funds and shall promptly pay or deliver to the client as requested all funds in the possession of the lawyer which the client is entitled to receive.

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RULE 1

IN GENERAL; SUPREME COURT; PREREQUISITES TO THE PRACTICE OF LAW

(a) **Supreme Court.** The Supreme Court of Washington has the exclusive responsibility and the inherent power to establish the qualifications for admission to practice law, and to admit persons to practice law in this state. Any person carrying out the functions set forth in these rules is acting under the authority and at the direction of the Supreme Court.

(b) **Prerequisites to the Practice of Law.** Except as may be otherwise provided in these rules, a person shall not appear as an attorney or counsel in any of the courts of the State of Washington, or practice law in this state, unless that person has passed the Washington State bar examination, has complied with the other requirements of these rules, and is an active member of the Washington State Bar Association (referred to in these rules as the Bar Association). A person shall be admitted to the

practice of law and become an active member of the Bar Association only by order of the Supreme Court.

RULE 2

BOARD OF GOVERNORS

(a) **Powers.** In addition to any other power or authority in other rules, the Board of Governors of the Bar Association (referred to in these rules as the Board of Governors) shall have the power and authority to:

(1) Appoint a Committee of Law Examiners (referred to in these rules as the Committee) from among the active members of the Bar Association for the purposes of assisting the Board of Governors in conducting the bar examination and in supervising the law clerk program;

(2) Approve or deny applications for permission to take the bar examination, to enroll in the law clerk program, or to engage in the limited practice of law under pertinent provisions of rules 8 and 9;

(3) Investigate all aspects of an applicant's qualifications to take the bar examination, to be admitted to the practice of law, to engage in the limited practice of law under pertinent provisions of rules 8 and 9, or to enroll in the law clerk program;

(4) Recommend to the Supreme Court the admission or rejection of each applicant who has passed the bar examination or who is applying to engage in the limited practice of law under pertinent provisions of rules 8 and 9;

(5) Approve law schools for the purposes of these rules and maintain a list of such approved law schools on file with the Clerk of the Supreme Court;

(6) Prescribe, with the approval of the Supreme Court, the amount of any fees required by these rules;

(7) Prescribe the form and content of any application, certificate, or other document referred to in these rules; and

(8) Perform any other functions and take any other actions provided for in these rules, or as may be delegated by the Supreme Court, or as may be necessary and proper to carry out its duties.

(b) **Written Request.** Any request to the Board of Governors for action on any subject under these rules shall be in writing and shall be properly filed. For the purpose of these rules, filing shall occur at the headquarters office of the Bar Association.

RULE 3

APPLICANTS TO TAKE THE BAR EXAMINATION

(a) **Prerequisite for Admission.** Every person desiring to be admitted to the Bar of the State of Washington must be of good moral character and must qualify for and pass a bar examination.

(b) **Qualification for Bar Examination.** To qualify to sit for the bar examination, a person must:

(1) Be either (i) a citizen of the United States, or (ii) an alien lawfully admitted for permanent residence in accordance with federal immigration and naturalization law; and

(2) Present satisfactory proof of either (i) graduation from a law school approved by the Board of Governors, or (ii) completion of the law clerk program prescribed by these rules, or (iii) admission to the practice of law by examination, together with current good standing, in any state or territory of the United States or the District of Columbia, and active legal experience for at least 3 of the 5 years immediately preceding the filing of the application. "Active legal experience" shall mean experience either in the active practice of law, or as a teacher at an approved law school, or as a judge of a court of general or appellate jurisdiction, or any combination thereof, in a state or territory of the United States or in the District of Columbia.

(c) **Exceptions.** The Board of Governors may, in its discretion, withhold permission for an otherwise qualified person to sit for the bar examination, until completion of an inquiry into the applicant's character and fitness, if the applicant (i) has ever been convicted of a "serious crime" as defined in RLD 3.1(h), or (ii) has ever been disbarred or is presently suspended from the practice of law for disciplinary reasons in any jurisdiction, or (iii) has previously been denied admission to the Bar in this or any other jurisdiction for reasons other than failure to pass a bar examination. The Board of Governors may also withhold permission to sit for the bar examination where for any other reason there are serious and substantial questions regarding the present moral character or fitness of the applicant.

(d) **Forms; Fees; Filing.** Every applicant to take the bar examination shall:

- (1) Execute and file an application, in the form and manner and within the time limits that may be prescribed by the Board of Governors;
- (2) Pay upon the filing of the application such fees as may be set by the Board of Governors with the approval of the Supreme Court; and
- (3) Furnish whatever additional information or proof may be required in the course of investigating the applicant.

RULE 4

BAR EXAMINATIONS; CERTIFICATION OF RESULTS

(a) **Bar Examination.** The examination for admission to the bar shall be conducted by and under the direction of the Board of Governors with the assistance of the Committee. The bar examination shall be held in February and in July of each year, or at such other times as the Board of Governors may designate, commencing at the times and in the locations selected by the Board of Governors.

(b) **Certification of Results; Notice.** As soon as practicable after the completion of the bar examination, the Committee shall certify to the Board of Governors the grades of all applicants who have taken the bar examination. The Board of Governors shall cause each applicant to be notified of the results of the bar examination. No information will be divulged concerning the applicants who failed the bar examination.

(c) **Repeating Bar Examination.** Any applicant failing a bar examination may apply to take another bar examination, but after the third failure occurring over any period of time no applicant shall take any subsequent bar examination until 11 months have elapsed since the date upon which the immediately preceding bar examination was taken. The 11-month waiting period shall apply to each succeeding failure on the bar examination.

RULE 5

RECOMMENDATION FOR ADMISSION; ORDER ADMITTING TO PRACTICE; PAYMENT OF MEMBERSHIP FEE; OATH OF ATTORNEY; RESIDENT AGENT

(a) **Recommendation for Admission.** The Board of Governors shall recommend to the Supreme Court the admission or rejection of each applicant who has passed the bar examination. A recommendation for admission shall be based upon the Board of Governors determination, after investigation, that the applicant appears to be of good moral character and in all respects qualified to engage in the practice of law. All recommendations of the Board of Governors shall be accompanied by the applicant's application for examination and any other documents deemed pertinent by the Board of Governors or requested by the Supreme Court. The recommendation and all accompanying documents and papers shall be kept by the Clerk of the Supreme Court in a separate file which shall not be a public record.

(b) **Order Admitting to Practice.** After examining the recommendation and accompanying papers transmitted by the Board of Governors, the Supreme Court may enter such order in each case as it deems advisable. For those applicants it deems qualified, the Supreme Court shall enter an order admitting them to the practice of law, conditioned upon such applicant's:

- (1) Taking and filing with the Clerk of the Supreme Court the Oath of Attorney within 1 year from the date the bar examination results are made public, except for good cause shown; and
- (2) Paying to the Bar Association its membership fee for the current year; and
- (3) Designating a resident agent if required to do so by section (e).

(c) **Oath of Attorney.** The Oath of Attorney must be taken before a court of general or appellate jurisdiction, sitting in open court, in the state of Washington. In the event a successful applicant is outside the state of Washington and the Chief Justice is satisfied that it is impossible or impractical for the applicant to take the oath before a court of general or appellate jurisdiction in this state, the Chief Justice may, upon proper application setting forth all the circumstances, designate a person authorized by law to administer oaths, before whom the applicant may appear and take said oath.

(d) **Contents of Oath.** The oath which all applicants shall take is as follows:

OATH OF ATTORNEY
State of Washington, County of, ss.
I,, do solemnly declare:

- 1. I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.
- 2. I will support the constitution of the State of Washington and the constitution of the United States.
- 3. I will abide by the Code of Professional Responsibility approved by the Supreme Court of the State of Washington.
- 4. I will maintain the respect due to the courts of justice and judicial officers.
- 5. I will not counsel, or maintain any suit, or proceeding, which shall appear to me to be unjust, or any defense except as I believe to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the causes confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.
- 6. I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client or with the approval of the court.
- 7. I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.
- 8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

.....
(signature)

Subscribed and sworn to before me this day of, 19...

.....
Judge

(e) Nonresident Lawyers; Resident Agent. There shall be no requirement that an applicant or a member of the Bar Association be a resident or a bona fide resident in the state of Washington. Every active member of the Bar Association who does not live or maintain an office in the state of Washington shall file with the Bar Association the name and address of an agent within this state for the purpose of receiving service of process or of any other document required or permitted by statute or court rule to be served or delivered to a resident lawyer. Service or delivery to such agent shall be deemed service upon or delivery to the lawyer.

RULE 6

LAW CLERK PROGRAM

- (a) Applicants.** Every applicant for enrollment in the law clerk program shall:
 - (1) Be of good moral character;
 - (2) Present satisfactory proof of having been granted a bachelor's degree, other than a bachelor of laws, by a college or university offering such a degree on the basis of a 4-year course of study;
 - (3) Obtain regular, full-time employment in the State of Washington as a law clerk with (i) a judge of a court of general or appellate jurisdiction, or (ii) a lawyer or firm of lawyers licensed to practice in this state and actively engaged in the practice of law;
 - (4) Submit on forms provided by the Bar Association (i) an application for admission to the law clerk program, (ii) the tutor's statement required by subsection (b)(3) of this rule, and (iii) an application fee; and
 - (5) Appear for an interview, provide any additional information or proof, and cooperate in any investigation, as may be deemed relevant by the Board of Governors.

(b) Tutors. A lawyer may act as a tutor for only one law clerk at a time. To be eligible to act as a tutor in the law clerk program, a lawyer shall:

- (1) Be an active member in good standing of the Bar Association, provided that if a disciplinary sanction has been imposed upon the lawyer within the 5 years immediately preceding the filing of the law clerk's application for enrollment, the Board of Governors shall have the discretion to accept or reject the lawyer as tutor;
- (2) Have been actively and continuously engaged in the practice of law or have held the required judicial position for at least 10 years immediately preceding the filing of the law clerk's application for enrollment; and
- (3) Provide a tutor's statement certifying to the law clerk's employment and to the tutor's eligibility, and agreeing to instruct and examine the law clerk in the curriculum prescribed by the Committee with the approval of the Board of Governors.

(c) Length of Study. A law clerk, whose application for enrollment has been accepted by the Board of Governors, shall study for 4 calendar years. Each calendar year shall consist of at least 48 weeks, with a minimum of 30 hours of study each week, including the time spent in performing the duties of a law clerk. The tutor shall give personal supervision to the law clerk averaging at least 3 hours each week. "Personal supervision" is defined as time actually spent with the law clerk for the exposition and discussion of the law, the recitation of cases, and the critical analysis of the law clerk's written assignments.

(d) Course of Study. The subjects to be studied, the sequence in which they are to be studied, and any other matters pertaining thereto shall be as prescribed by the Committee with the approval of the Board of Governors.

(e) Examinations. All law clerks shall:

- (1) Each month, complete a written examination prepared, administered, and graded by the tutor. The examination shall be answered without research, assistance, or reference to source materials during the examination;
- (2) Annually, or at such other intervals as may be established by the Committee, appear with the tutor before the Committee for an oral evaluation of the law clerk's progress.

(f) Certificates. In addition to the tutor's statement required by subsection (b)(3) of this rule, the tutor shall submit, on forms provided by the Bar Association:

- (1) A monthly certificate, accompanying the written examination, stating the number of hours the law clerk studied each week, the number of hours spent by the tutor in personal supervision each week, that the written examination was administered as required, and that, in the opinion of the tutor, the law clerk is progressing satisfactorily; and
- (2) At the conclusion of the law clerk's course of study, a certificate stating that the law clerk has completed the prescribed length and course of study, and, in the tutor's opinion, is qualified to take the bar examination and is competent to practice law.

(g) **Termination.** The Board of Governors may direct a law clerk to change tutors, and may terminate the enrollment of law clerks or remove tutors from the program. The Committee may recommend to the Board of Governors that the enrollment of the law clerk in the program be terminated for:

(1) Failure to complete the prescribed length and course of study within 6 years from the date the law clerk's application for admission was accepted;

(2) Failure of the tutor to submit the monthly examinations and certificates at the end of each month in which they are due;

(3) Failure to comply with any of the requirements of the law clerk program; and

(4) Any other grounds deemed pertinent by the Committee.

(h) **Advanced Standing.** The Board of Governors may grant advanced standing to an enrolled law clerk who has attended either an approved or a nonapproved law school.

(i) **Effective Date.** The revision of this rule shall not apply retroactively to any law clerk whose enrollment has been approved and accepted by the Board of Governors prior to the effective date of this revision. Each law clerk may complete the course of study under the version of the rule in effect on the date the application for enrollment to the law clerk program was accepted.

RULE 7

INVESTIGATIONS; DUTY OF APPLICANT

(a) **Investigations.** The Board of Governors may refer any application for permission to take the bar examination, to be admitted to the practice of law or to be admitted to the limited practice of law under pertinent provisions of rules 8 and 9, or to enroll in the law clerk program to state bar counsel or to any existing or special committee of the Bar Association for investigation. In connection with any investigation, the Board of Governors shall have the power to:

(1) Direct the issuance of subpoenas by the Executive Director of the Bar Association in the name of the Board of Governors to compel the attendance of witnesses at depositions or hearings, or for the production of books, records, or other documents;

(2) Require additional proof or answers to interrogatories relating to any fact stated in an application; and

(3) Require an applicant, upon reasonable notice, to appear before the Board of Governors or any existing or special committee of the Bar Association for an examination regarding any matter deemed by the Board of Governors to be relevant to a proper consideration of the application.

(b) **Duty of Applicant.** It shall be the duty of every applicant to cooperate with any investigation required by the Board of Governors, by promptly furnishing written or oral explanations, documents, releases, authorizations, or anything else reasonably required by the investigator. Failure to appear as directed or to furnish additional proof or answers as required or to cooperate fully shall

be sufficient reason for the Board of Governors to reject or to recommend the rejection of an application.

RULE 8

SPECIAL ADMISSIONS

(a) **In General.** Lawyers admitted to the practice of law in any state or territory of the United States or the District of Columbia, who do not meet the requirements of rule (1)(b), may engage in the practice of law in this state only as provided in this rule.

(b) **Exception for Particular Action or Proceeding.** A member in good standing of the Bar of any other state or territory of the United States or of the District of Columbia, who is a resident of and maintains a practice in such other state, territory, or District, may appear as a lawyer in the trial of any action or proceeding only (i) with the permission of the court or tribunal in which the action or proceeding is pending, and (ii) in association with an active member of the Bar Association, who shall be the lawyer of record therein, responsible for the conduct thereof, and present at all proceedings.

(1) An application to appear as such a lawyer shall be made to the court or tribunal before whom the action or proceeding is pending. The application shall be heard by the court or tribunal after such notice to the adverse parties as the court or tribunal shall direct. The court or tribunal shall enter an order granting or refusing the application, and, if the application is refused, the court shall state its reasons.

(2) No member of the Bar Association shall lend his or her name for the purpose of, or in any way assist in, avoiding the effect of this rule.

(c) **Exception for Indigent Representation.** A member in good standing of the Bar of another state or territory of the United States or of the District of Columbia, who is eligible to take the bar examination in this state, while rendering service in either a bar association or governmentally sponsored legal services organization or in a public defender's office or similar program providing legal services to indigents and only in that capacity, may, upon application and approval, practice law and appear as a lawyer before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations:

(1) Application to practice under this rule shall be made to the Board of Governors, and the applicant shall be subject to the Rules for Lawyer Discipline and to the Code of Professional Responsibility.

(2) In any such matter, litigation, or administrative proceeding, the applicant shall be associated with an active member of the Bar Association, who shall be the lawyer of record and responsible for the conduct of the matter, litigation, or administrative proceeding.

(3) The applicant shall apply for and take the first bar examination which is given more than 90 days after the date of the applicant's admission to practice under this rule.

(4) The applicant's right to practice under this rule (i) may be terminated by the Supreme Court at any time

with or without cause, or (ii) shall be terminated automatically for failure to take or pass the required bar examination, or (iii) shall be terminated for failure to become an active member of the Bar Association within 60 days of the date the bar examination results are made public, or (iv) in any event, shall be terminated within 1 year from the original date of the applicant's admission to practice law in this state under this rule.

(d) Exception for Educational Purposes. A lawyer who is enrolled and in good standing as a postgraduate student or as a faculty member in a program of an approved law school in this state, involving clinical work in the courts or in the practice of law, may apply to the Board of Governors for admission to the limited practice of law by paying an investigation fee and by presenting satisfactory proof of (i) admission to the practice of law and current good standing in any state or territory of the United States or the District of Columbia, and (ii) compliance with the requirements of rule 3(b)(1), and (iii) good moral character.

(1) Upon approval of the application by the Board of Governors, the applicant shall take the Oath of Attorney, and the Board of Governors shall transmit its recommendation to the Supreme Court which shall enter an order admitting the applicant to the limited practice of law under this section.

(2) The practice of an applicant admitted under this section shall be (i) limited to the period of time the applicant actively participates in the program, (ii) limited to the clinical work of the particular course of study in which the applicant is enrolled or teaching, (iii) free of charge for the services so rendered, and (iv) subject to the Code of Professional Responsibility and the Rules for Lawyer Discipline.

(3) An applicant admitted under this section shall be deemed an active member of the Bar Association only for the purpose of serving as a supervising lawyer under rule 9, and for no other purpose.

(4) When the applicant ceases actively to participate in the program, the law school dean shall immediately notify the Bar Association and the Clerk of the Supreme Court so that the applicant's right to practice may be terminated of record.

RULE 9

LEGAL INTERNS

(a) Admission to Limited Practice. Qualified law students, enrolled law clerks, and graduates of approved law schools may be admitted to the status of legal intern and be granted a limited license to engage in the practice of law only as provided in this rule. To qualify, an applicant must:

(1) Be a student duly enrolled and in good academic standing at an approved law school with legal studies completed amounting to not less than two-thirds of a prescribed 3-year course of study or five-eighths of a prescribed 4-year course of study, and have the written approval of the applicant's law school dean or a person designated by such dean; or

(2) Be an enrolled law clerk in compliance with the provisions of rule 6 with not less than three-fourths of the prescribed 4-year course of study completed, and have the written approval of the tutor; or

(3) Make the application before the expiration of 9 months following graduation from an approved law school, and submit satisfactory evidence thereof to the Bar Association; and

(4) Certify in writing under oath that the applicant has read, is familiar with, and will abide by, the Code of Professional Responsibility and this rule.

(b) Procedure. The applicant shall submit an application, for which no fee shall be required, on a form provided by the Bar Association, setting forth the applicant's qualifications.

(1) The application shall give the name of, and shall be signed by, the supervising lawyer who, in doing so, shall assume the responsibilities of supervising lawyer set forth in this rule if the applicant is granted a limited license as a legal intern. The supervising lawyer shall be relieved of such responsibilities upon the termination of the limited license or at an earlier time if the supervising lawyer or the applicant gives written notice to the Bar Association and the Supreme Court requesting that the supervising lawyer be so relieved. In the latter event another active member of the Bar Association may be substituted as such supervising lawyer by giving written notice of such substitution, signed by the applicant and by such other active member, to the Bar Association and the Supreme Court.

(2) Upon receipt of the application, it shall be examined and evaluated by the Board of Governors which shall endorse thereon its approval or disapproval and forward the same to the Supreme Court.

(3) The Supreme Court shall issue or refuse the issuance of a limited license of a legal intern. The Supreme Court's decision shall be forwarded to the Bar Association, and the applicant shall be informed of the Supreme Court's decision.

(c) Scope of Practice. A legal intern shall be authorized to engage in the limited practice of law, in civil and criminal matters, only as authorized by the provisions of this rule. A legal intern shall be subject to the Code of Professional Responsibility and the Rules for Lawyer Discipline as adopted by the Supreme Court and to all other laws and rules governing lawyers admitted to the Bar of this state, and shall be personally responsible for all services performed as an intern. Upon recommendation of the Disciplinary Board, a legal intern may be precluded from sitting for the bar examination or from being admitted as a member of the Bar Association within the discretion of the Board of Governors. Any such intern barred from the bar examination or from recommendation for admission by the Board of Governors shall have the usual rights of appeal to the Supreme Court.

(1) A judge may exclude a legal intern from active participation in a case filed with the court in the interest of orderly administration of justice or for the protection

of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising lawyer.

(2) No legal intern may receive payment from a client for the intern's services. However, nothing contained herein shall prevent a legal intern from being paid for services by the intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern and the intern's supervising lawyer or a lawyer from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status.

(3) A legal intern may advise or negotiate on behalf of a person referred to the intern by the supervising lawyer. A legal intern may prepare necessary pleadings, motions, briefs or other documents. It is not necessary in such instances for the supervising lawyer to be present.

(4) A legal intern may participate in superior court and Court of Appeals proceedings, including depositions, provided the supervising lawyer or another lawyer from the same office is present. Ex parte and agreed orders may be presented to the court by a legal intern without the presence of the supervising lawyer or another lawyer from the same office. An intern may represent the State in juvenile court in misdemeanor and gross misdemeanor cases without in-court supervision after a reasonable period of in-court supervision, which shall not be less than one trial.

(5) Except as otherwise provided in subsection (c)(6), in courts of limited jurisdiction, a legal intern, only after participating with the supervising lawyer in at least one nonjury case, may try nonjury cases in such courts without the presence of a supervising lawyer and, only after participating with the supervising lawyer in at least one jury case, may try jury cases in such courts without the presence of a supervising lawyer.

(6) Either the supervising lawyer or a lawyer from the same office shall be present in the representation of a defendant in all preliminary criminal hearings.

(d) Supervising Lawyer. The supervising lawyer shall be an active member of the Bar Association in good standing, provided that if a disciplinary sanction has been imposed upon the lawyer within the 5 years immediately preceding the filing of the application, the Board of Governors shall have the discretion to accept or reject the lawyer as a supervising lawyer. The supervising lawyer shall have been actively engaged in the practice of law in the State of Washington or elsewhere for at least 3 years at the time the application is filed.

(1) The supervising lawyer or another lawyer from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under the lawyer's supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising lawyer or a lawyer from the same office as the supervising lawyer. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document

is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising lawyer or lawyer from the same office as the supervising lawyer. In any proceeding in which a legal intern appears before the court, the legal intern must advise the court of the intern's status and the name of the intern's supervising lawyer.

(2) Supervision shall not require that the supervising lawyer be present in the room while the legal intern is advising or negotiating on behalf of a person referred to the intern by the supervising lawyer, or while the legal intern is preparing the necessary pleadings, motions, briefs, or other documents.

(3) As a general rule, no supervising lawyer shall have supervision over more than 1 legal intern at any one time. However, in the case of (i) recognized institutions of legal aid, legal assistance, public defender and similar programs furnishing legal assistance to indigents, or legal departments of a state, county or municipality, the supervising lawyer may have supervision over 2 legal interns at one time, or (ii) a clinical course offered by an approved law school where such course has been approved by its dean and is directed by a member of its faculty, and conducted within institutions or legal departments described in (i) or the law school, each full-time clinical supervising lawyer may have supervision over 10 legal interns at one time provided a supervising lawyer attends all adversarial proceedings conducted by the legal interns.

(4) A lawyer currently acting as a supervising lawyer may be terminated as a supervising lawyer at the discretion of the Board of Governors. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising lawyer, signed by the intern and by the new and qualified supervising lawyer, is given to the Bar Association and to the Supreme Court.

(5) The failure of a supervising lawyer, or lawyer acting as a supervising lawyer, to provide adequate supervision or to comply with the duties set forth in this rule shall be grounds for disciplinary action pursuant to the Rules for Lawyer Discipline.

(6) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the lawyer providing supervision for the intern.

(7) For purposes of the provisions of this rule which permit a lawyer from the same office as the supervising lawyer to sign documents or be present with a legal intern during court appearances, the lawyer so acting must be one who meets all of the qualifications for becoming a supervising lawyer under this rule.

(e) Term of Limited License. A limited license as a legal intern shall be valid, unless revoked, for a period of not more than 24 consecutive months, provided that a person who fails the bar examination shall not continue to serve or to be eligible to become a legal intern after the date the bar examination results are made public, and provided further that a person shall not serve as a legal intern more than 12 months after graduation from law school.

(1) The approval given to a law student by the law school dean or the dean's designee or to a law clerk by the tutor may be withdrawn at any time by mailing notice to that effect to the Clerk of the Supreme Court and to the Bar Association, and shall be withdrawn if the student ceases to be duly enrolled as a student prior to graduation or ceases to be in good academic standing or if the law clerk ceases to comply with rule 6.

(2) A limited license is granted at the sufferance of the Supreme Court and may be revoked at any time upon the court's own motion, or upon the motion of the Board of Governors, in either case with or without cause.

(3) An intern shall immediately cease performing any services under this rule and shall cease holding himself or herself out as a legal intern (i) upon termination for any reason of the intern's limited license under this rule; or (ii) upon the resignation of the intern's supervising lawyer; or (iii) upon the suspension or termination by the Board of Governors of the supervising lawyer's status as supervising lawyer; or (iv) upon the withdrawal of approval of the intern pursuant to this rule.

RULE 10

[RESERVED]

APR 12(b)(2)(x)

(x) Interim certification and approval of forms. The Board may adopt regulations permitting interim certification of closing officers and approval of forms pending adoption of final regulations and the initial certification of successful applicants pursuant to this rule, provided that this interim certification shall expire ~~1 year~~ 18 months from the date of adoption of this rule.

**PART II
RULES FOR APPELLATE COURT
ADMINISTRATION**

**SUPREME COURT ADMINISTRATIVE RULES
(SAR)**

- Rule 4 Sessions of the Supreme Court
- Rule 21 Justices Pro Tempore – *Revision to Rule 21(c)*

RULE 4

SESSIONS OF THE SUPREME COURT

The regular sessions of the Supreme Court shall be held in the Supreme Court, the Temple of Justice, at the capital, beginning on the second Monday of January, the second Monday of May, and the second Monday of September each year. The court will not sit for the regular hearing of cases in July and August.

Sessions of the court shall commence at 9 a.m. or at such other time as the court may order.

At the direction of the Chief Justice, sessions of the Supreme Court may be held outside Olympia at other

locations in the state of Washington. The times and places of such sessions will be designated by the court.

Hearings en banc, rehearings, and special hearings may be set by the court in its discretion at such other times as the court may order.

SAR 21(c)

(c) Duties of the Justice Pro Tempore.

(1) A justice, while serving pro tempore, shall have the same power and authority as a justice of the supreme court, and he shall perform such duties as the court may direct. ~~Justices pro tempore shall not author majority opinions other than in those cases wherein they prevail by concurring or dissenting opinion. Justices pro tempore shall author majority opinions at the discretion of the Chief Justice.~~

(2) A justice pro tempore will function promptly on opinions and petitions for rehearing on which he is qualified to function. When such opinions are received by him after the period of his appointment has expired, his original period of office as a justice pro tempore shall be deemed to exist in order for him to function and to accomplish the ministerial act of filing the opinion.

**PART III
RULES ON APPEAL**

RULES OF APPELLATE PROCEDURE (RAP)

Table of Contents

- Rule 15.4 Claim for Payment of Expense for Indigent Party – *Revision to Rule 15.4(d)*
- Rule 17.1 Scope
- Rule 18.14 Motion on the Merits
- Rule 18.15 Accelerated Review of Adult Sentencing
- Rules 18.16 through 18.20 Reserved

RAP 15.4(d)

(d) Invoice of Court Reporter: or Typist.

(1) An invoice submitted by the court reporter should be titled "Invoice of Court Reporter—Indigent Case." The invoice must state the number of pages transcribed and the billing rate per page. The billing rate must be at the rate per page or line page equivalent set by the Supreme Court for the original and one copy of that portion of the report of proceedings ordered by the superior court. Additional copies which have been authorized and ordered from the reporter must be charged for as though reproduced by the most economical method available to the reporter. The superior court clerk shall certify the reporter's invoice as follows:

I hereby certify that the amount claimed in this invoice is for that portion of the verbatim report of proceedings ordered by the trial court; that the typing of the report is in accordance with appellate rule 9.2(e) and (g); and that the bill is computed at the current rate per page set by the Supreme Court for the original and one copy, namely \$ per page.

(2) If the record at the trial level was made by use of electronic or mechanical recording devices, so that a verbatim transcript has been prepared by a typist, the typist shall submit an invoice titled "Invoice of Typist—Indigent Case." The invoice must state the number of pages transcribed. The invoice shall state whether the typist was hired at an hourly or per page rate, and it shall state the rate. In no event may the amount claimed on the invoice exceed the number of pages typed times the rate per page or line page equivalent set by the Supreme Court for court reporters. The superior court clerk shall certify the typist's invoice. If the typist was hired at a per page rate, the certificate shall be as set forth above for court reporters. If the typist was hired at an hourly rate, the certificate shall state that the amount claimed by the typist does not exceed the maximum which could have been claimed by a court reporter at the rate per page or line page equivalent set by the Supreme Court, and it shall further state what such maximum amount would have been.

(e) Invoice of Superior Court Clerk. An invoice submitted by the superior court clerk should be titled "Invoice of Superior Court Clerk—Indigent Case." The invoice must itemize the clerk's charges for the preparation of the record ordered by counsel for the indigent or the trial court and list the actual expenses of the clerk for transmittal of those portions of the record. The superior court clerk shall certify the clerk's invoice as follows:

I hereby certify that the items listed in this invoice are correct charges for the preparation of those portions of the record ordered by counsel or the trial court and for the actual expense of transmittal of those portions of the record.

RULE 17.1

~~RELIEF AVAILABLE BY MOTION~~ SCOPE

(a) Relief Under This Title. A person may seek relief, other than a decision of the case on the merits, by motion as provided in Title 17.

(b) Motion on the Merits. A party may seek a decision on the merits by motion as provided in rule 18.14. The rules in Title 17 apply to a motion for a decision on the merits only to the extent provided in rule 18.14.

RULE 18.14

MOTION ON THE MERITS

(a) Generally. The appellate court may, on its own motion or on motion of a party, affirm a decision or any part thereof on the merits in accordance with the procedures defined in this rule. A motion by a party pursuant to this rule should be denominated a "motion on the merits." The general motion procedures defined in Title 17 apply to a motion on the merits only to the extent provided in this rule.

(b) Time. A party may submit a motion on the merits any time after the appellant's brief has been filed. The appellate court on its own motion may, at any time, set a

case on the motion calendar for disposition and enter orders the court deems appropriate to facilitate the hearing and disposition of the case. The clerk will notify the parties of the setting and of any orders entered by the court.

(c) Content, Filing, and Service; Response. A motion on the merits should be a separate document and should not be included within a party's brief on the merits. The motion should comply with a party's brief on the merits. The motion should comply with rule 17.3(a), except that material contained in a brief may be incorporated by reference and need not be repeated in the motion. The motion should be filed and served as provided in rule 17.4. A response may be filed and served as provided in rule 17.4(e) and may incorporate material in a brief by reference.

(d) Who Decides Motion. A motion on the merits shall be determined initially by a judge or commissioner of the appellate court.

(e) Considerations Governing Decision on Motion. A motion on the merits will be granted in whole or in part if the appeal or any part thereof is determined to be clearly without merit. In making these determinations, the judge or commissioner will consider all relevant factors including whether the issues on review (1) are clearly controlled by settled law, (2) are factual and supported by the evidence, or (3) are matters of judicial discretion and the decision was clearly within the discretion of the trial court.

(f) Oral Argument. A motion on the merits may be denied without oral argument if the case obviously requires full appellate review. In all other instances rule 17.5 applies to a motion on the merits, except that oral argument will ordinarily be granted for a motion on the merits that is to be decided initially by the judge or judges. If the appellate court initiates the motion on the merits, the parties will be given an opportunity to submit briefs on the motion before the date set for oral argument on the motion.

(g) Form of Decision Denying Motion. Rule 17.6 is applicable to a decision denying a motion on the merits.

(h) Form of Decision Granting Motion. A ruling or decision granting a motion on the merits will be concise and will include a description of the facts sufficient to place the issues in context, a statement of the issues, and a resolution of the issues with supportive reasons.

(i) Review of Ruling. A ruling or decision denying a motion on the merits or referring the motion to the judges for decision pursuant to rule 17.2(b) is not subject to review by the judges. A ruling or decision granting a motion on the merits by a single judge or commissioner is subject to review as provided in rule 17.7.

(j) Nondisqualification of Judge. Participation in a ruling or decision on a motion on the merits does not thereby disqualify a judge from further participation in the case.

(k) Procedure Optional With Court. The Supreme Court or any division of the Court of Appeals may, by general order, decide not to use the procedure defined by this rule.

RULE 18.15

ACCELERATED REVIEW OF ADULT SENTENCINGS

(a) **Generally.** A sentence which is beyond the standard range may be reviewed in the manner provided in the rules for other decisions or by accelerated review as provided in this rule.

(b) **Accelerated Review by Motion.** After the notice of appeal has been filed, any party may seek accelerated sentence review and must do so by motion. The motion must include (1) the name of the party filing the motion; (2) the offense; (3) the disposition of the trial court; (4) the standard range for the offense; (5) a statement of the disposition urged by the moving party; (6) copies of the findings of fact, conclusions of law and judgment and sentence; (7) an argument for the relief sought with reference to that portion of RCW 9.94A.210(4) relied upon by the moving party.

(c) **Service on Court Reporter or Clerk.** A copy of the motion for accelerated review must be served upon the court reporter in attendance at the sentencing, or, in the case of electronic recording, upon the clerk of the superior court.

(d) **Time for Hearing.** The hearing will be conducted no later than 28 days following filing of the record required by RCW 9.94A.210(5). The court will notify the parties of the hearing date.

(e) **Motion Procedure Controls.** The motion procedure, including a party's response, is governed by Title 17.

(f) **Accelerated Review of Other Issues.** The decision of issues other than those relating to the sentence may be accelerated only pursuant to rules 18.8 and 18.12.

RULES 18.16 through 18.20

[RESERVED]

**PART IV
RULES FOR SUPERIOR COURT**

SUPERIOR COURT CIVIL RULES (CR)

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Rule 50 Motion for a Directed Verdict and for Judgment Notwithstanding the Verdict – *Revision to Rule 50(b)*
 Rule 59 New Trial, Reconsideration, and Amendment of Judgments
 Rule 80 Court Reporters

CR 50(b)

(b) **Motion for Judgment Notwithstanding the Verdict.** Not later than 5 10 days after the entry of judgment or after the jury is discharged if no verdict is returned, whether or not he has moved for a directed verdict and whether or not a verdict was returned, a party may move for judgment notwithstanding the verdict. A motion for judgment notwithstanding the verdict shall identify the specific reasons in fact and law as to each ground on which the motion is based. A motion in the alternative for a new trial may be joined with this motion.

RULE 59

NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS

(a) **Grounds for Reconsideration New Trial or New Trial Reconsideration.** The verdict or other decision may be vacated and a new trial granted to all or any of the parties and on all or part of the issues when such issues are clearly and fairly separable and distinct, on the motion of the party aggrieved for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial.

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

(6) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

(7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

(8) Error in law occurring at the trial and objected to at the time by the party making the application;

(9) That substantial justice has not been done.

(b) **Time for Motion; Contents of Motion.** A motion for a new trial or for reconsideration shall be served and filed not later than 5 10 days after the entry of the judgment.

A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) **Time for Serving Affidavits.** When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 5 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

(d) **On Initiative of Court.** Not later than 5 10 days after entry of judgment, the court of its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new

trial on motion of a party, and in the order shall specify the grounds thereof.

(e) **Hearing on Motion.** When a motion for reconsideration or for a new trial is served and filed, the judge by whom it is to be heard may on his own motion or on application determine:

(1) *Time of Hearing.* Whether the motion shall be heard before the entry of judgment;

(2) *Consolidation of Hearings.* Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and

(3) *Nature of Hearing.* Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

(f) **Statement of Reasons.** In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

(g) **Reopening Judgment.** On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(h) **Motion To Alter or Amend Judgment.** A motion to alter or amend the judgment shall be served not later than 5 10 days after entry of the judgment.

(i) **Alternative Motions, etc.** Alternative motions for judgment notwithstanding the verdict and for a new trial may be made in accordance with rule 50(c).

(j) **Limit on Motions.** If a motion for reconsideration, or for a new trial, or for judgment notwithstanding the verdict, is made and heard before the entry of the judgment, no further motion may be made for a new trial nor pursuant to sections (g), (h), and (i) of this rule, nor under rule 52(b), without leave of court first obtained for good cause shown.

RULE 80

COURT REPORTERS

(a) [Reserved.]

(b) **Electronic Recording.** In any civil or criminal proceedings, electronic or mechanical recording devices approved by the Administrator for the Courts may be used to record oral testimony and other oral proceedings in lieu of or supplementary to causing shorthand notes thereof to be taken. In ex parte all matters the use of such a devices shall rest within the sole discretion of the court. ~~In controverted matters, the use of recording devices shall be at the discretion of the court, unless a party of record or his counsel makes timely objection prior to the commencement of the proceedings. This~~

provision shall be subject to review no later than September 30, 1986.

SUPERIOR COURT MANDATORY ARBITRATION RULES (MAR)

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Rule 1.2 Matters Subject to Arbitration

RULE 1.2

MATTERS SUBJECT TO ARBITRATION

A civil action, other than an appeal from a court of limited jurisdiction, is subject to arbitration under these rules if the action is at issue in a superior court in a county which has authorized mandatory arbitration under RCW 7.06, if the sole relief sought is a money judgment, and if (1) no party asserts a claim in excess of \$10,000 the amount authorized by RCW 7.06.020 as determined by local superior court rule, exclusive of attorney fees, interest and costs, or if (2) all parties for purposes of arbitration waive claims in excess of \$10,000 the amount described in subsection (1), exclusive of attorney fees, interest and costs. Other matters may be arbitrated under these rules only by stipulation under rule 8.1.

SUPERIOR COURT SPECIAL PROCEEDINGS RULES (SPR)

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Rule 98.16W Estates—Guardianship—Settlement of Claims of Minors — Revision to Rule 98.16W(d)

SPR 98.16W(d)

(d) Control of Remaining Funds.

(1) Under \$5,000 \$10,000. If the money or the value of other property remaining is \$5,000 \$10,000 or less and there is no general guardian of the ward, the court shall require that (i) the money be deposited in a bank or trust company or be invested in an account in an insured financial institution for the benefit of the ward subject to withdrawal only upon the order of the court as a part of the original proceeding, or (ii) a general guardian be appointed and the money or other property be paid or delivered to such guardian.

(2) Over \$5,000 \$10,000. If the money or the value of other property remaining exceeds \$5,000 \$10,000, and there is no general guardian of the ward, the court in the order or judgment shall require that a general guardian be appointed.

SUPERIOR COURT CRIMINAL RULES (CrR)

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- Rule 2.1 The Indictment and the Information – *Revision to Rule 2.1(f)*
- Rule 4.2 Pleas
- Rule 6.2 Jurors' Orientation
- Rule 7.1 Procedures Before Sentencing
- Rule 7.2 Sentencing
- Rule 7.3 Judgment
- Rule 7.4 Arrest of Judgment
- Rule 7.6 New Trial

CrR 2.1(f)

(f) **Defendant's Criminal History.** Upon the filing of an indictment or information charging a felony, the prosecuting attorney shall request a copy of the defendant's criminal history, as defined in RCW 9.94A.030, from the Washington State Patrol Identification and Criminal History Section.

Comment

The purpose of the rule is to ensure that the defendant's criminal history is available when and if the court is required to determine the validity of a plea agreement.

RULE 4.2

PLEAS

(a) **Types.** A defendant may plead not guilty, not guilty by reason of insanity or guilty.

(b) **Multiple Offenses.** Where the indictment or information charges two or more offenses in separate counts the defendant shall plead separately to each.

(c) **Pleading Insanity.** Written notice of an intent to rely on the insanity defense, and/or a claim of present incompetency to stand trial, must be filed at the time of arraignment or within 10 days thereafter, or at such later time as the court may for good cause permit. All procedures concerning the defense of insanity or the competence of the defendant to stand trial are governed by RCW 10.77.

(d) **Voluntariness.** The court shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea.

(e) **Agreements.** ~~If a plea of guilty is based upon an agreement between the defendant and the prosecuting attorney, such agreement must be made a part of the record at the time the plea is entered. No agreement shall be made which specifies what action the judge shall take on or pursuant to the plea or which attempts to control the exercise of his discretion, and the court shall so advise the defendant. If the defendant intends to plead guilty pursuant to an agreement with the prosecuting attorney, both the defendant and the prosecuting attorney shall, before the plea is entered, file with the court their understanding of the defendant's criminal history, as defined in RCW 9.94A.030. The nature of the agreement and the reasons for the agreement shall be made a part of the record at the time the plea is entered. The validity of the agreement under RCW~~

9.94A.090 may be determined at the same hearing at which the plea is accepted.

(f) **Withdrawal of Plea.** The court shall allow a defendant to withdraw his plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court later determines under RCW 9.94A.090 that the agreement is not binding, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered.

(g) **Written Statement.** A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

SUPERIOR COURT OF WASHINGTON
FOR [.....] COUNTY

THE STATE OF WASHINGTON, Plaintiff, v. Defendant.	}	No. STATEMENT OF DEFENDANT ON PLEA OF GUILTY
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1. My true name is
2. My age is
3. I went through the grade in school.
4. I have been informed and fully understand that I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is
5. I have been informed and fully understand that I am charged with the crime of, that the elements of the crime are, and that the maximum sentence for the crime is the maximum sentence(s) for which is (are) years and \$..... fine. The standard sentence range for the crime is at least and not more than based upon my criminal history which I understand the Prosecuting Attorney says to be:
- I have been given a copy of the information.
6. I have been informed and fully understand that:
 - (a) I have the right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
 - (b) I have the right to remain silent before and during trial, and I need not testify against myself.
 - (c) I have the right at trial to hear and question witnesses who testify against me.
 - (d) I have the right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
 - (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
 - (f) I have the right to appeal a determination of guilt after a trial.
 - (g) If I plead guilty I give up the rights in statements 6(a)-(f).
7. I plead to the crime of as charged in the information.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. I have been informed and fully understand the Prosecuting Attorney will make the following recommendation to the court; and to the Board of Prison Terms and Paroles:
12. I have been informed and fully understand that the court does not have to follow the Prosecuting Attorney's recommendation as to sentence. The court is completely free to give me any sentence up to the maximum permitted by law no matter what the Prosecuting Attorney recommends: the standard sentencing range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions or guilty pleas at juvenile court that are felonies and which were committed when I was 15 years of age or older. Juvenile convictions count only if I was less than 23 years of age at the time I committed this present offense. I fully understand that if criminal history in addition to that listed in paragraph 5 is discovered, both the standard sentence range and the Prosecuting Attorney's recommendation may increase. Even so, I fully understand that my plea of guilty to this charge is binding upon me if accepted by the court, and I cannot change my mind if additional criminal history is discovered and the standard sentence range and Prosecuting Attorney's recommendation increases.
13. I have been informed and fully understand that if I am sentenced to prison the Judge must sentence me to the maximum term required by the law, which in

this case is The minimum term of sentence is set by the Board of Prison Terms and Paroles. The Judge and Prosecuting Attorney may recommend a minimum sentence to the Board but the Board does not have to follow their recommendation. I have been further advised that the crime with which I am charged carries a mandatory minimum of years. I have been advised that the law requires that a prison term be imposed and does not permit any form of probation for the crime with which I am charged. I have been advised that if I am sentenced to prison, my sentence must be served consecutively to my prior prison sentence for a prior felony. (If not applicable, any or all of the last three sentences shall be stricken and initialed by the defendant and the Judge.) the court does not have to follow anyone's recommendation as to sentence. I have been fully informed and fully understand that the court must impose a sentence within the standard sentence range unless the court finds substantial and compelling reasons not to do so. If the court goes outside the standard sentence range, either I or the State can appeal that sentence. If the sentence is within the standard sentence range, no one can appeal the sentence.

14. I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

15. The court has asked me to state briefly in my own words what I did that resulted in my being charged with the crime in the information. This is my statement:

16. I have read or have had read to me and fully understand all of the numbered paragraphs above (1 through 15) and have received a copy of "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the court.

Defendant
Prosecuting Attorney Defendant's Lawyer

The foregoing statement was read by or to the defendant and signed by the defendant in the presence of his or her attorney, and the undersigned Judge, in open court. The court finds the defendant's plea of guilty to be knowingly, intelligently and voluntarily made, that the court has informed the defendant of the nature of the charge and the consequences of the plea, that there is a factual basis for the plea, and that the defendant is guilty as charged.

Dated this day of, 19
Judge

I am fluent in the language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this day of, 19
Interpreter

(h) Verification by Interpreter. If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provided for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

Comment

Section (e) of the rule accommodates the requirements in RCW 9.94A.080, .090, and .100. The rule also makes it clear that it is unnecessary to hold separate hearings for determining the validity of the agreement and for accepting the guilty plea.

In section (f) of the rule, a new sentence is added reflecting a similar provision in RCW 9.94A.090. It is desirable to repeat the statutory provision in the rule to avoid any implication that the "manifest injustice" test in the existing rule applies to the withdrawal of a plea entered pursuant to an agreement that is later found to be not binding under the statute.

The rule requires only that the court "inform" the defendant of the right to withdraw a guilty plea. The Commission concluded that the statutory provision requiring a formal "order" was unnecessary and will recommend that the statute be amended to conform to the rule. It is assumed that if the defendant chooses to exercise the option of withdrawing the plea, the withdrawal will be confirmed by the entry of an order.

Regardless of whether the defendant is permitted to withdraw a guilty plea under the existing "manifest injustice" standard or the new statutory provision, the time for trial is extended under CrR 3.3(d)(7) to 90 days after the entry of the order confirming the withdrawal of

the plea if the defendant is released, or 60 days if the defendant is to remain in custody pending trial.

Section (g), concerning the defendant's written statement, has been revised throughout to conform to the requirements of the new act.

Section (h) is the same as the corresponding section in the prior rule.

RULE 6.2

JURORS' ORIENTATION

All jurors will be given a general orientation when they report for duty.

(a) Juror Handbook. A copy of the ~~Uniform Washington Juror's Handbook~~ to Washington Courts prepared by the ~~Washington Supreme Court Committee on Jury Instructions~~ Superior Court Judges' Association of the State of Washington and the Washington State Magistrates Association shall be provided to all petit jurors by the court in which they are to serve.

(b) Juror Information Sheet. Prior to the commencement of a petit juror's term of service, a juror information sheet shall be furnished to ~~him~~ the juror by the court in which ~~he~~ the person is to serve. The format of the information sheet shall be consistent with recommendations of the Administrator for the Courts.

RULE 7.1

PROCEDURES BEFORE SENTENCING

(a) Generally. At the time of, or within 3 days after, a plea, finding, or verdict of guilt of a felony, the court may order that a presentence investigation and report be prepared by the Department of Corrections. The court shall also then:

- (1) Set a date, time, and place for sentencing in compliance with the time requirements of RCW 9.94A.110;
- (2) Order the defendant to return at the designated date, time, and place; and
- (3) Set a date at least 10 days before sentencing for delivery of the presentence report, if any, to the court, to the prosecuting attorney, and to the defendant or defense counsel.

(b) Report. The report of the presentence investigation shall contain the defendant's criminal history, as defined by RCW 9.94A.030, and such information about his characteristics, his financial condition, and the circumstances affecting his behavior as may be relevant in imposing sentence or in the correctional treatment of the defendant, and such other information as may be required by the court.

(c) Notice of New Evidence. At least 3 days before the sentencing hearing, defense counsel and the prosecuting attorney shall notify opposing counsel and the court of any part of the presentence report that will be controverted by the production of evidence.

(d) Other Reports. Any interested person, as designated in RCW 9.94A.110, may submit a report separate from that furnished by the Department of Corrections.

Comment

The rule is designed to implement RCW 9.94A.110 and related statutes concerning the sentencing procedure. The entire rule is new; it

replaces the prior CrR 7.2, Presentence Investigation, portions of which are incorporated into the new rule.

Section (a) is adapted from Minn. R. Crim. P. 27.03. The rule states that the court may order a presentence investigation and report, giving the court a measure of discretion to dispense with a report when the appropriate sentence can readily be determined on the basis of the sentencing guidelines score sheet. The rule codifies the existing practice of requiring the writer of the report to send copies to counsel and to the court.

Section (b) is substantially the same as the prior rule, CrR 7.2(b). The reference in the prior rule to the defendant's "prior criminal record" is replaced by a reference to the defendant's "criminal history" in order to parallel the statutory language.

The reference to "helpful" information is replaced by a reference to "relevant" information because much of what is "helpful" under the prior rule will become irrelevant under a system of presumptive sentencing.

Section (c) ensures that both parties will receive reasonable notice of any intent to controvert the presentence report by the production of new evidence. The combined effect of sections (a)(3) and (c) is that each party will have 7 days to examine the report before giving the required notice.

Section (d) makes it clear that persons who are permitted under RCW 9.94A.110 to present "argument" at sentencing may do so in writing.

Unlike the prior rule, CrR 7.2(c), the rule contains no provision concerning the nondisclosure of "harmful" portions of the presentence report. The Commission concluded that the provision was no longer necessary because much of what might be "harmful" under the prior rule will no longer be relevant under presumptive sentencing and will not be included in the report. If a report under the presumptive sentencing system does contain information that the court believes should be kept confidential, the court may fashion an appropriate remedy on a case-by-case basis.

RULE 7.2

SENTENCING

(a) **Generally.** The court shall state the precise terms of the sentence and shall assure that the record accurately reflects all time spent in custody in connection with the offense or behavioral incident for which sentence is imposed. Pending such action the court may release or commit the defendant, pursuant to rule 3.2.

(b) **Procedure at Time of Sentencing.** The court shall, at the time of sentencing, unless the judgment and sentence are based on a plea of guilty, advise the defendant: (1) of his right to appeal the conviction; (2) of the right to appeal a sentence outside the standard sentence range; (3) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; (4) that the court clerk will, if requested by the defendant appearing without counsel, file a notice of appeal in his behalf; and (5) of his right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal. These proceedings shall be made a part of the record.

(c) **Record.** A verbatim record of the sentencing proceedings shall be made.

(d) **Judgment and Sentence.** For every felony sentencing, the clerk of the court shall forward a copy of the judgment and sentence to the Sentencing Guidelines Commission. If the sentence imposed departs from the applicable standard sentence range, the court's written

findings of fact and conclusions of law shall also be supplied to the Commission.

Comment

The prior rule, CrR 7.1, is adopted as CrR 7.2.

In section (a), the added language is suggested by Minn. R. Crim. P. 27.03. The deleted language addressed matters that are now covered in more detail in RCW 9.94A.110.

Section (b) is the same as the corresponding section in the prior rule, except that subsections (1) and (2) are modified to reflect the provisions of RCW 9.94A.210.

Section (c), concerning the withdrawal of a guilty plea, is deleted. In the existing rules, the point is covered in both CrR 4.2 and CrR 7.1. (See rule 4.2.) The language of the two provisions differs, but they appear to be the same in substance. There is no apparent distinction between the two provisions in the cases that have interpreted them. No loss of substance occurs when the provision in CrR 7.1 is deleted, leaving the point governed by CrR 4.2.

Section (c) is suggested by Minn. R. Crim. P. 27.03.

Section (d) is suggested by Minn. R. Crim. P. 27.03.

RULE 7.3

JUDGMENT

A judgment of conviction shall set forth whether defendant was represented by counsel or ~~validly waived counsel~~, made a valid waiver of counsel, the plea, the verdict or findings, and the adjudication and sentence. The court may order that its sentence include special conditions or requirements, including a specified schedule for the payment of a fine, restitution, or other costs, or the performance of community service. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judgment shall be signed by the judge and entered by the clerk.

Comment

The rule codifies the existing practice allowing the court to impose special conditions on its sentence. The rule makes it clear that special conditions, including a specified schedule, may likewise be imposed with respect to an order for community service, restitution, or costs. (See RCW 9.94A.200, referring to terms and conditions of restitution.)

The rule is, of course, subject to any statutory restrictions on the court's sentencing authority. For example, a statute requires that a sentence of confinement for more than 60 days must be served on consecutive days (RCW 9.94A.120). The rule would not permit the court to order that such a sentence be served on intermittent days.

RULE 7.4

ARREST OF JUDGMENT

(a) **Arrest of Judgments.** Judgment may be arrested on the motion of the defendant for the following causes: (1) Lack of jurisdiction of the person or offense; (2) the indictment or information does not charge a crime; or (3) insufficiency of the proof of a material element of the crime.

(b) **Time for Motion; Contents of Motion.** A motion for arrest of judgment must be served and filed within 5 10 days after the verdict or decision. The court on application of the defendant or on its own motion may in its discretion extend the time.

The motion for arrest of judgment shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) **New Charges After Arrest of Judgments.** When judgment is arrested and there is reasonable ground to believe that the defendant can be convicted of an offense properly charged, the court may order the defendant to be recommitted or released to answer a new indictment or information. If judgment was arrested because there was no proof of the a material element of the crime the defendant shall be dismissed.

(d) **Rulings on Alternative Motions in Arrest of Judgment or for a New Trial in Superior Court.** Whenever a motion in arrest of a judgment and, in the alternative, for a new trial is filed and submitted in any superior court in any criminal cause tried before a jury, and the superior court enters an order granting the motion in arrest of judgment, the court shall, at the same time, in the alternative, pass upon and decide in the same order the motion for a new trial. The ruling upon the motion for a new trial shall not become effective unless and until the order granting the motion in arrest of judgment is reversed, vacated, or set aside in the manner provided by law.

RULE 7.6

NEW TRIAL

(a) **Grounds for New Trial.** The court on motion of a defendant may grant a new trial for any one of the following causes when it affirmatively appears that a substantial right of the defendant was materially affected:

(1) Receipt by the jury of any evidence, paper, document or book not allowed by the court;

(2) Misconduct of the prosecution or jury;

(3) Newly discovered evidence material for the defendant, which he could not have discovered with reasonable diligence and produced at the trial;

(4) Accident or surprise;

(5) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial;

(6) Error of law occurring at the trial and **excepted objected** to at the time by the defendant;

(7) That the verdict or decision is contrary to law and the evidence;

(8) That substantial justice has not been done. ~~When the motion is based on matters outside the record, the facts shall be shown by affidavit.~~

When the motion is based on matters outside the record, the facts shall be shown by affidavit.

(b) **Time for Motion; Contents of Motion.** A motion for new trial must be served and filed within 5 10 days after the verdict or decision. The court on application of the defendant or on its own motion may in its discretion extend the time.

The motion for a new trial shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) **Time for Affidavits.** When a motion for a new trial is based upon affidavits they shall be served with the motion. The prosecution has 5 10 days after such service

within which to serve opposing affidavits. The court may extend the period for submitting affidavits to a time certain for good cause shown or upon stipulation.

(d) **Statement of Reasons.** In all cases where the court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

(e) **Disposition of Motion.** The motion shall be disposed of before judgment and sentence or order deferring sentence.

PART V RULES FOR COURTS OF LIMITED JURISDICTION

JUSTICE COURT CIVIL RULES (JCR)

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RULE 2A

STIPULATIONS

No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court on the record, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same.

Comment

The rule is substantially the same as the rule applicable in superior court. The phrase "before a court reporter" in the superior court rule has been changed to "on the record" because proceedings are recorded electronically in courts of limited jurisdiction.

2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS (RULES 3–6)

RULE 3

COMMENCEMENT OF ACTION

A civil action is commenced by filing with the court a complaint signed as required by rule 11.

Comment

The new rule is the same as the old rule. Filing continues to be required before service of the summons and complaint. The rule is necessary to prevent abuse by plaintiffs who serve a summons and complaint and later file the action and obtain a default judgment simultaneously.

~~1. SCOPE OF RULES—ONE FORM OF ACTION~~

1. INTRODUCTORY (RULES 1–2A)

RULE 1

SCOPE OF RULES

These rules govern the procedure in all trial courts of limited jurisdiction in all suits of a civil nature, with the exceptions stated in rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

Comment

The new rule is an adaptation of the rule applicable in superior court. The reference to superior court has been changed to refer to trial courts of limited jurisdiction, and the reference to cases in equity has been omitted.

The second sentence of the rule has special significance in courts of limited jurisdiction, where many parties appear without counsel. The rules should be applied with reason and common sense to protect the substantive rights of all parties, including those who appear without counsel.

RULE 2

ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

Comment

The rule is the same as the rule applicable in superior court.

RULE 4

PROCESS

(a) Summons—Issuance.

(1) The summons must be signed and dated by the plaintiff or his attorney, and directed to the defendant requiring him to defend the action and to serve a copy of his appearance or defense on the person whose name is signed on the summons.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve a copy of his defense within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different time to serve a defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the defendant or his attorney, and shall be served upon the person whose name is signed on the summons.

(4) No summons is necessary for a counterclaim or cross claim for any person who previously has been made a party. Counterclaims and cross claims against an existing party may be served as provided in rule 5.

(b) Summons.

(1) *Contents.* The summons for personal service shall contain:

(i) the title of the cause, specifying the name of the court in which the action is brought, the name of the

county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant;

(ii) a direction to the defendant summoning him to serve a copy of his defense within a time stated in the summons;

(iii) a notice that, in case of failure so to do, judgment will be rendered against him by default. It shall be signed and dated by the plaintiff, or his attorney, with the addition of his post office address, at which the papers in the action may be served on him by mail.

(2) Form. The summons for personal service in the state shall be substantially in the following form:

[NAME AND LOCATION OF COURT]

Plaintiff,	}	No.
v.		
Defendant.		
		SUMMONS (20 days)

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned person you are entitled to notice before a default judgment may be entered.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Justice Court Civil Rules.

[signed]

.....

Print or Type Name

() Plaintiff () Plaintiff's Attorney

P.O. Address

Telephone Number

Dated

(c) By Whom Served. Service of summons and complaint may be made by the sheriff or a deputy of the county or district in which the court is located or by any citizen of the State of Washington over the age of 18 years and who is competent to be a witness and is not a party to the action.

(d) Service.

(1) Of Summons and Complaint. The summons and complaint shall be served together.

(2) Personal in State. Personal service of summons and other process shall be as provided in RCW 4.28-.080-.090, 23A.08.110, 23A.32.100, 46.64.040, and 48-.05.200 and .210, and other statutes which provide for personal service.

(e) Service by Publication and Personal Service Out of the Jurisdiction.

(1) When the defendant cannot be found within the territorial jurisdiction of the court (of which the return of the sheriff of the county in which the action is brought, that the defendant cannot be found in the county, is prima facie evidence), and upon filing of an affidavit of the plaintiff, his agent, or attorney, with the

court stating that he believes that the defendant is not a resident of the county, or cannot be found therein, and that he has deposited a copy of the summons (substantially in the form prescribed in this rule) and complaint in the post office, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons by the plaintiff or his attorney in any of the following cases:

(i) when the defendant is a foreign corporation, and has property within the county;

(ii) when the defendant, being a resident of the county, has departed therefrom with intent to defraud his creditors, or to avoid the service of a notice and complaint, or keeps himself concealed therein with like intent;

(iii) when the defendant is not a resident of the county, but has property therein which has been brought under the control of the court by seizure or some equivalent act;

(iv) when the subject of the action is personal property in the county, and the defendant has or claims a lien or interest, actual or contingent, therein, and the relief demanded consists wholly, or partially, in excluding the defendant from any interest or lien therein;

(v) when the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to personal property in the county.

(2) The publication shall be made in the same manner and in the same form as a summons by publication in superior court (see RCW 4.28.100), with appropriate adjustments for the name and location of the court.

(3) Personal service on the defendant out of the territorial jurisdiction of the court shall be equivalent to service by publication, and the notice to the defendant out of the county shall contain the same as the notice by publication and shall require the defendant to appear at a time and place certain which shall not be less than 30 days from the date of service.

(4) Service made in the modes provided in this section 4(e) shall not alone be taken and held to give the court jurisdiction over the person of the defendant. By such service the court only acquires jurisdiction to give a judgment which is effective as to property or debts attached or garnished in connection with the suit or other property which properly forms the basis of jurisdiction of the court. If the defendant appears in a suit commenced by such service the court shall have jurisdiction over his person. The defendant may appear specially and solely to challenge jurisdiction over property or debts attached or garnished or other property within the jurisdiction of the court.

(f) Alternative to Service by Publication. In circumstances justifying service by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a

party, by mailing copies of the summons and other process to the party to be served at his last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the defendant to appear and answer the complaint within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(g) **Appearance.** A voluntary appearance of a defendant does not preclude his right to challenge lack of jurisdiction over his person, insufficiency of process, or insufficiency of service of process pursuant to rule 12(b).

(h) **Territorial Limits of Effective Service.** All process other than a subpoena may be served anywhere within the territorial limits of the state, and when a statute or these rules so provide beyond the territorial limits of the state. A subpoena may be served within the territorial limits provided in rule 45 and RCW 5.56.010.

(i) **Return of Service.** Proof of service shall be as follows:

(1) If served by the sheriff or his deputy, the return of the sheriff or his deputy endorsed upon or attached to the summons;

(2) If served by any other person, his affidavit of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit of the publisher, foreman, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(4) If served as provided in section (f), the affidavit of the serving party stating that copies of the summons and other process were sent by mail in accordance with the rule and directions by the court, and stating to whom, and when, the envelopes were mailed;

(5) The written acceptance or admission of the defendant, his agent or attorney;

(6) In case of personal service out of the state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record;

(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit must state the time, place, and manner of service. Failure to make proof of service does not affect the validity of the service.

(j) **Amendment of Process.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

Comment

The new rule is substantially the same as the rule applicable in superior court, with necessary revisions to accommodate statutory restrictions on the jurisdiction of courts of limited jurisdiction. The new rule abandons the "Notice of Suit" in favor of the traditional summons used in superior court and assumes that a written answer or appearance is required (see rule 7).

Section (a) is the same as section (a) of the superior court rule, except that a reference to condemnation actions has been omitted.

Section (b) is substantially the same as section (b) of the superior court rule. A reference to condemnation actions in subsection (2) has been omitted, and a paragraph in the summons concerning a demand for filing has been omitted. In a court of limited jurisdiction, the plaintiff is required by rule to file the action before serving the summons and complaint. A reference to the superior court rules in the summons has been changed to refer to the rules for courts of limited jurisdiction.

Section (c) is the same as section (d) in the old justice court rule, and is substantially the same as the rule applicable in superior court. Unlike the superior court rule, the rule for courts of limited jurisdiction refers to a sheriff of the county or district in which the court is located.

Section (d) is the same as the first two subsections in section (d) of the superior court rule. The old justice court rule reiterated the provisions of RCW 4.28.080, relating to the proper person to be served. The new rule simply incorporates the provisions by reference, as in the superior court rule.

Section (e), through the end of subsection (1), is the same as the old justice court rule (f)(1), with references to "notice" changed to "summons." Subsection (e)(2) abandons the provisions in the old justice court rule (f)(2) that are based upon the "notice of suit" system. The new rule simply incorporates the statutory manner and form of serving a summons by publication in superior court. The statute requires that the summons be published six times, rather than the three times required by the old justice court rule. Subsections (3) and (4) are the same as subsections (f)(3) and (f)(4) in the old justice court rule.

Section (f) is the same as subsection (d)(4) of the superior court rule.

Section (g) is the same as subsection (d)(5) of the superior court rule.

Section (i) is the same as section (g) of the superior court rule. It is substantially the same as section (h) of the old justice court rule. By substituting the superior court rule for the old justice court rule, a provision requiring proof of service before entry of a default judgment and an award of costs is omitted. This requirement is implicit in rule 55.

Section (j) is the same as section (h) of the superior court rule and section (i) of the old justice court rule.

RULE 5

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) **Service: When Required.** Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4.

In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure.

(b) Service: How Made.

(1) *On Attorney or Party.* Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the clerk of the court an affidavit of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service on an attorney is subject to the restrictions in subsections (b)(4) and (5) of this rule and in rule 71, Withdrawal by Attorneys.

(2) Service by Mail.

(i) *How made.* If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.

(ii) *Proof of service by mail.* Proof of service of all papers permitted to be mailed may be by written acknowledgment of service, by affidavit of the person who mailed the papers, or by certificate of an attorney. The certificate of an attorney may be in form substantially as follows:

CERTIFICATE

I certify that I mailed a copy of the foregoing to [John Smith], [plaintiff's] attorney, at [office address or residence], and to [Joseph Doe], an additional [defendant's] attorney [or attorneys] at [office address or residence], postage prepaid, on [date].

.
[John Brown]
Attorney for [Defendant]
William Noe

(3) *Service on Nonresidents.* Where a plaintiff or defendant who has appeared resides outside the state and has no attorney in the action, the service may be made by mail if his residence is known; if not known, on the clerk of the court for him. Where a party, whether resident or nonresident, has an attorney in the action, the service of papers shall be upon the attorney instead of the party. If the attorney does not have an office within the state or has removed his residence from the state, the service may be upon him personally either within or without the state, or by mail to him at either his place of residence or his office, if either is known, and if not known, then by mail upon the party, if his residence is known, whether within or without the state. If the residence of neither the party nor his attorney, nor the office

address of the attorney is known, an affidavit of the attempt to serve shall be filed with the clerk of the court.

(4) *Service on Attorney Restricted After Final Judgment.* A party, rather than the party's attorney, must be served if the final judgment or decree has been entered and the time for filing an appeal has expired, or if an appeal has been taken (i) after the final judgment or decree upon remand has been entered or (ii) after the mandate has been issued affirming the judgment or decree or disposing of the case in a manner calling for no further action by the trial court. This rule is subject to the exceptions defined in subsection (b)(6).

(5) *Required Notice to Party.* If a party is served under circumstances described in subsection (b)(4), the paper shall (i) include a notice to the party of the right to file written opposition or a response, the time within which such opposition or response must be filed, and the place where it must be filed; (ii) state that failure to respond may result in the requested relief being granted; and (iii) state that the paper has not been served on that party's lawyer.

(6) *Exceptions.* An attorney may be served notwithstanding subsection (b)(4) of this rule if (i) fewer than 63 days have elapsed since the filing of any paper or the issuance of any process in the action or proceeding or (ii) if the attorney has filed a notice of continuing representation.

(c) **Service: Numerous Defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing.

(1) *Time.* Complaints shall be filed as provided in rule 3. All pleadings and other papers after the complaint required to be served upon a party shall be filed with the court either before service or promptly thereafter.

(2) *Sanctions.* If a party fails to file any pleading or paper under this rule, the court upon 5 days' notice of motion for sanctions may dismiss the action or strike the pleading or other paper and grant judgment against the defaulting party for costs and terms including a reasonable attorney fee unless good cause is shown for, or justice requires, the granting of an extension of time.

(3) *Limitation.* No sanction shall be imposed if prior to the hearing the pleading or paper other than the complaint is filed and the moving attorney is notified of the filing before he leaves his office for the hearing.

(4) *Nonpayment.* No further action shall be taken in the pending action and no subsequent pleading or other paper shall be filed until the judgment is paid. No subsequent action shall be commenced upon the same subject matter until the judgment has been paid.

(e) **Filing With the Court Defined.** The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(f) **Other Methods of Service.** Service of all papers other than the summons and other process may also be made as authorized by statutes other than RCW 4.28-.230, 4.28.240, 4.28.250, 4.28.260, 4.28.270, and 4.28-.280, which are superseded by these rules.

(g) **Certified Mail.** Whenever the use of "registered" mail is authorized by statutes relating to judicial proceedings or by rule of court, "certified" mail, with return receipt requested, may be used.

(h) **Service of Papers by Telegraph.** Any writ or order in any civil suit or proceeding and all the papers requiring service may be transmitted by telegraph for service in any place, and the telegraphic copy of such writ or order or paper so transmitted may be served or executed by the officer or person to whom it is sent for that purpose and returned by him, if any return be requisite, in the same manner, and with the same force and effect in all respects as the original thereof might be, if delivered to him, and the officer or person serving or executing the same shall have the same authority and be subject to the same liabilities as if the said copy were the original. The original, when a writ or order, shall also be filed in the court from which it was issued, and a certified copy thereof shall be preserved in the telegraph office from which it was sent. In sending it, either the original or certified copy may be used by the operator for that purpose.

Comment

The new rule is the same as the rule applicable in superior court, with one minor exception. A reference to the failure to file a complaint has been omitted from subsection (d)(1). In a court of limited jurisdiction, the action is not commenced until the complaint is filed. See rule 3.

The new rule is much more detailed than the old rule but should make no appreciable change in practice. The new rule simply spells out the superior court provisions that were incorporated by reference in section (b) of the old rule.

RULE 6

TIME

(a) **Computation.** In computing any period of time prescribed or allowed by these rules, by the local rules of any court, by order of court, or by an applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday, nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(b) **Enlargement.** When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any actions under rules 50(b), 59(b), 59(d), and 60(b).

(c) **Proceeding Not To Fail for Want of Judge or Session of Court.** No proceeding in a court of justice in any action, suit, or proceeding pending therein is affected by a vacancy in the office of any or all of the judges or by the failure of a session of the court.

(d) **For Motions—Affidavits.** A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in rule 59(c), opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time.

(e) **Additional Time After Service by Mail.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

Comment

The new rule is the rule applicable in superior court, with only minor changes. The word "superior" preceding "court" in section (a) has been omitted, and the reference to rule 52(b) has been omitted from section (b) because rule 52 is reserved.

The new rule establishes a uniform formula for computing time in all trial courts.

Section (d) now requires that a motion be served 5 days before the hearing, rather than 3.

**3. PLEADINGS AND MOTIONS
(RULES 7-16)**

RULE 7

PLEADINGS ALLOWED: FORM OF MOTIONS

(a) **Pleadings.** There shall be a complaint and an answer; ~~and there shall be a reply to a counterclaim denominated as such; an answer to a cross claim, if the answer contains a cross claim; a third party complaint, if leave is given under rule 14 to summon a person who was not an original party; a person who was not an original party is summoned under the provisions of rule 14; and there shall be a third party answer, if a third party complaint is served. No other pleadings shall be allowed, except that the court may order a reply to an answer or a third party answer.~~

The complaints, counterclaims, cross claims and third party claims shall be in writing. A reply to a counterclaim and answers may be written or oral. When pleadings are oral the substance of them shall be entered in the docket.

(b) Motions and Other Papers.

(1) An application to the court for an order shall be by motion. Motions may be oral or written. Motions need not be in any special form but must be such as to enable a person of common understanding to know what is intended. How Made. An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) Form. The rules applicable to captions, signing, and other matters of form of written pleadings apply to all written motions and other papers provided for by these rules.

(3) Identification of Evidence. When a motion is supported by affidavits or other papers, it shall specify the papers to be used by the moving party.

(c) Demurrers, Pleas, etc., Abolished. Demurrers, pleas and exceptions for insufficiency of a pleading shall not be used.

Comment

The old rule is amended to conform to the requirements in superior court. Section (a) reflects the liberalized provisions for third party practice in rule 14. Oral pleadings and motions are abolished, with the limited exception that oral motions are permitted during a hearing or trial.

RULE 8

GENERAL RULES OF PLEADING

(a) Claims for Relief. A complaint pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross claim, or third party claim shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

(b) Defenses; Form of Denials. A party shall state in short and plain terms his defenses, denials and objections to each claim asserted against him in any form which will enable a person of common understanding to know what is intended and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, he may make his denials as specific denials of designated averments or

paragraphs, or he may generally deny all the averments except such designated averments or paragraphs as he expressly admits; but, when he does so intend to controvert all its averments, he may do so by general denial subject to the obligations set forth in rule 11.

(c) Affirmative Defenses. In a written answer to a complaint, cross claim or third party claim and in a written reply to a counterclaim pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitation, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(d) Effect of Failure To Deny. Statements Averments in a pleading to which responsive pleading is required, other than those as to the amount of damage, are admitted when not denied by in the responsive pleading. Statements of an answer to a complaint, cross claim, or third party complaint, or a reply to a counterclaim Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) Pleading To Be Concise and Direct: Consistency.

(1) Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required. Pleadings and motions shall be stated so as to enable a person of common understanding to know what is intended.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in rule 11.

(f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

Comment

The new rule is the same as the rule applicable in superior court. Most of the amendments are matters of style rather than substance. The principal effect of the new rule is to discourage general denials of all allegations in the complaint, a practice that was both prevalent and troublesome under the old rules.

RULE 9

PLEADING SPECIAL MATTERS

(a) Capacity. It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to

sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) Fraud, Mistake, Condition of the Mind. In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) Condition Precedent. In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) Official Document or Act. In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) Time and Place. For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) Special Damage. When items of special damage are claimed, they shall be specifically stated.

(h) Pleading Existence of City or Town. In pleading the existence of any city or town in this state, it shall be sufficient to state in such pleading that the same is an existing city or town, incorporated or organized under the laws of Washington.

(i) Pleading Ordinance. In pleading any ordinance of a city or town in this state it shall be sufficient to state the title of such ordinance and the date of its passage, whereupon the court shall take judicial notice of the existence of such ordinance and the tenor and effect thereof.

(j) Pleading Private Statutes. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title, and the day of its passage, and the court shall thereupon take judicial notice thereof.

(k) Foreign Law.

(1) United States Jurisdictions. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States shall set forth in his pleading facts which show that the law of another United States jurisdiction may be applicable, or shall state in his pleading or serve other reasonable written notice that the law of another United States jurisdiction may be relied upon.

(2) Other Jurisdictions. A party who intends to raise an issue concerning the law of a jurisdiction other than a state, territory or other jurisdiction of the United States shall give notice in his pleading of the foreign jurisdiction whose law he contends may be applicable to the facts of the case. The following matters need not be pleaded, but may be discovered pursuant to rule 26:

(i) the party's contentions as to which issues of law are governed by the foreign law;

(ii) the substance of such foreign law;

(iii) the expected effect of such foreign law on the legal issues and on the outcome of the case being tried;

(iv) the specific foreign statutes, regulations, judicial and administrative decisions, documents and other non-privileged written materials and translations thereof upon which the party intends to rely.

(3) Application of Foreign Law. Issues of foreign law may be simplified pursuant to rule 16 and determined in advance of trial pursuant to rule 56.

(4) Failure To Plead Foreign Law. If no party has requested in his pleadings application of the law of a jurisdiction other than a state, territory or other jurisdiction of the United States, the court at time of trial shall apply the law of the State of Washington unless such application would result in manifest injustice.

(l) Burden of Proof. Nothing in this rule shall be construed to shift or alter the burden of proof.

Comment

The new rule is the same as the rule applicable in superior court. It addresses matters that were not previously covered in the rules for courts of limited jurisdiction.

RULE 10

FORM OF PLEADINGS

(a) Caption; Names of Parties. Every written pleading shall contain a caption setting forth the name of the court, the title of the action, the file number if known to the person signing it, and a designation as in rule 7(a). In the complaint the title of the action shall include the names of all the parties, but in other written pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties. When the plaintiff is ignorant of the name of the defendant, it shall be so stated in his pleading, and such defendant may be designated in any pleading or proceeding by any name, and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

(b) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(c) Form. All notices, pleadings, motions, and other papers filed shall be plainly written or typed.

Comment

The new rule is the same as the old rule. The simplified requirements for courts of limited jurisdiction are retained.

RULE 11

SIGNING OF PLEADINGS

Every pleading of a party represented by an attorney shall be dated and signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and date his pleading and state his address. Pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a willful violation of this rule an attorney may be subjected to appropriate action as for contempt. Similar action may be taken if scandalous or indecent matter is inserted.

Comment

The new rule is the same as the rule applicable in superior court, except that a sentence relating to marriage dissolutions has been omitted. The new rule eliminates the requirement that pleadings be verified in courts of limited jurisdiction.

RULE 12

~~DEFENSES AND OBJECTIONS—WHEN AND HOW PRESENTED—BY PLEADING OR MOTION— MOTION FOR JUDGMENT ON PLEADINGS~~

~~(a) **When Presented.** If the answer is oral, a defendant shall make the oral answer on or before the time he is required to appear in answer to the notice as indicated in rule 4. If the answer is written a defendant shall serve his answer on or before the time he is required to appear in answer to the notice as indicated in rule 4. A party served with a pleading stating a cross claim against him shall answer thereto on the return date fixed in a notice which shall accompany the pleading. The plaintiff shall reply to a counterclaim not less than 3 days prior to trial. If the court denies a motion permitted under this rule or postpones its disposition until the trial on the merits, the court may set the case for trial at the same time and also fix a time for the responsive pleading. If the court grants a motion for more definite statement the court may set the case for trial at the same time and fix the date for making the more definite statement and for the responsive pleading to the more definite statement.~~

~~(a) **When Presented.** A defendant shall serve his answer within the following periods:~~

~~(1) Within 20 days, exclusive of the day of service, after the service of the summons and complaint upon him pursuant to rule 4;~~

~~(2) Within 60 days from the date of the first publication of the summons if the summons is served by publication in accordance with rule 4;~~

~~(3) Within the period fixed by any other applicable statutes or rules.~~

A party served with a pleading stating a cross claim against him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court.

(i) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action.

(ii) If the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross claim, or third party claim, shall be asserted by the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, ~~(4)(5)~~ insufficiency of service of process, ~~(5)(6)~~ failure to state a claim upon which relief can be granted, ~~(6)(7)~~ failure to join an indispensable party a party under rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered ~~(5)~~ (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in ~~ER~~ rule 56 and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by ~~ER~~ rule 56.

(c) **Motion for Judgment on the Pleadings.** After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by rule 56.

~~(c)~~(d) **Preliminary Hearings.** The defenses specifically enumerated (1)–~~(6)~~(7) in section (b) of this rule, whether made in a pleading or by motion, and the motion for judgment mentioned in section (c) of this rule shall be heard and determined before trial on application

of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

~~(d)~~**(e) Motion for More Definite Statement.** If a pleading to which a responsive pleading is permitted ~~(for example, the complaint)~~ is so vague or ambiguous that a person of common understanding party cannot know what is intended reasonably be required to frame a responsive pleading, or if more particularity in that pleading will further the efficient economical disposition of the action, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

~~(e)~~**(f) Motion To Strike.** Upon motion made by a party not less than 3 days prior to trial or upon the court's own initiative at any time the court may order stricken from the complaint any impertinent or scandalous matter. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

~~(f)~~**(g) Consolidation of Defenses in Motion.** A party who makes a motion under this rule may join with it other motions herein provided for and then available to him. ~~If a party makes a motion under this rule and does not include therein all defenses and objections then available to him which this rule permits to be raised by motions, he shall not thereafter make a motion based on any of the defenses or objections so omitted, except as provided in section (g) of this rule. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subsection (h)(2) hereof on any of the grounds there stated.~~

~~(g)~~**Waiver of Defenses.** A party waives all defenses and objections which he does not present either by motion as hereinbefore provided or, if he has made no motion, in his answer or reply, except (1) that the defense of failure to state a claim upon which relief can be granted, the defense of failure to join an indispensable party, and the objection of failure to state a legal defense to a claim may also be made by a later pleading, if one is permitted, or by motion for judgment on the pleadings or at the trial on the merits, and except (2) that, whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action. The objection or defense, if made at the trial, shall be disposed of as provided in rule 15(b) in the light of any evidence that may have been received.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service of process is waived (i) if omitted from a motion in the circumstances described in section (g), or (ii) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by rule 15(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

Comment

The old rule is amended to conform to the rule applicable to superior court, except that a reference to the long-arm statute has been omitted in section (a). The long-arm statute is unavailable in courts of limited jurisdiction because of the territorial limits on service of process. See rule 4.

The changes in section (a) reflect the abandonment of the "notice of suit" and an appearance on a date certain in favor of the traditional summons used in superior court. See rule 4. Most of the amendments in the remaining sections are matters of style rather than substance. Section (c) authorizes a judgment on the pleadings, a procedure not formerly codified in the rules for courts of limited jurisdiction.

RULE 13

COUNTERCLAIM AND CROSS CLAIM

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon his claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

~~(a)~~**(b) Permissive Counterclaims.** A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

~~(b)~~**(c) Counterclaim Exceeding Opposing Claim.** A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Counterclaim Against the State. These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims, or to claim credits against the State or an officer or agency thereof.

~~(e)~~**(e) Counterclaim Maturing or Acquired After Pleading.** A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

~~(d)~~**(f) Omitted Counterclaim.** When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

~~(e)~~**(g) Cross Claim Against Coparty.** A pleading may state as a cross claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross claim may include a claim that the party against whom it is asserted is or may be liable to the cross claimant for all or part of a claim asserted in the action against the cross claimant.

~~(f)~~**Additional Parties May Be Brought In.** When the presence of parties other than those to the original action is required for the granting of complete relief in the determination of a counterclaim or cross claim, the court shall order them to be brought in as defendants as provided in these rules, if jurisdiction of them can be obtained.

(h) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross claim in accordance with the provisions of rules 19 and 20.

~~(g)~~**(i) Separate Trials; Separate Judgment.** If the court orders separate trials as provided in rule 42(b), judgment on a counterclaim or cross claim may be rendered in accordance with the terms of rule ~~42(b)~~ 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

(j) Setoff Against Assignee. The defendant in a civil action upon a contract express or implied, other than upon a negotiable promissory note or bill of exchange, negotiated in good faith and without notice before due, which has been assigned to the plaintiff, may set off a demand of a like nature existing against the person to whom he was originally liable, or any assignee prior to the plaintiff, of such contract, provided such demand existed at the time of the assignment thereof, and belonging to the defendant in good faith, before notice of such assignment, and was such a demand as might have been set off against such person to whom he was originally liable, or such assignee while the contract belonged to him.

(k) Setoff Against Beneficiary of Trust Estate. If the plaintiff be a trustee to any other, or if the action be in a name of a plaintiff which has no real interest in the contract upon which the action is founded, so much a demand existing against those whom the plaintiff represents or for whose benefit the action is brought may be set off as will satisfy the plaintiff's debt, if the same might have been set off in an action brought against those beneficially interested.

(l) Setoff Must Be Pleading. To entitle a defendant to a setoff under this rule, he must set forth the same in his answer.

Comment

The old rule is amended to conform to the rule applicable in superior court. Sections (k) and (l) are not found in the superior court rule because they are covered by statutes applicable to superior court.

Sections (a) and (d) address matters that were not formerly codified in the rules for courts of limited jurisdiction. The remaining amendments are largely matters of style rather than substance. Sections (j), (k), and (l) are taken from the old JCR 13.04, which is rescinded.

RULE 13.04

SETOFFS AGAINST ASSIGNEES

[Rescinded. Provisions transferred to rule 13.]

RULE 14

THIRD PARTY PRACTICE

(a) When Defendant May Bring in Third Party. Before making his answer, a defendant may move ex parte or, after answering, on notice to the plaintiff, for leave as a third party plaintiff to serve a notice and complaint upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. If the motion is granted and the notice and complaint are served, the person so served At any time after commencement of the action a defending party, as a third party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him. The third party plaintiff need not obtain leave to make the service if he files the third party complaint not later than 10 days after he serves his original answer. Otherwise he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third party complaint, hereinafter called the third party defendant, shall make his defenses to the third party plaintiff's claim as provided in rule 12 and his counterclaims against the third party plaintiff and cross claims against other third party defendants as provided in rule 13. The third party defendant may assert against the plaintiff any defenses which the third party plaintiff has to the plaintiff's claim. The third party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff. The plaintiff may assert any claim against the third party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff, and the third party defendant thereupon shall assert his defenses as provided in rule 12 and his counterclaims and cross claims as provided in rule 13. Any party may move to strike the third party claim, or for its severance or separate trial. A third party defendant may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third party defendant.

(b) When Plaintiff May Bring in Third Party. When a counterclaim is asserted against a plaintiff, he may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

(c) Tort Cases. This rule shall not be applied in tort cases, so as to permit the joinder of a liability or indemnity insurance company, unless such company is by statute or contract directly liable to the person injured or damaged.

Comment

The new rule is the same as the rule applicable in superior court. It dispenses with the requirement that the court's permission be obtained before serving a third party defendant.

Sections (b) and (c) are the same as in the old rule.

RULE 14A

REMOVAL TO SUPERIOR COURT

(a) Jurisdiction Over Third Party. A case may be removed to superior court in order to obtain jurisdiction over a third party defendant, as provided in RCW 4.14-.010. This procedure is governed by RCW 4.14.

(b) Claims in Excess of Jurisdiction — Generally. When a defendant, third party defendant, or cross claimant in good faith asserts a claim in an amount in excess of the jurisdiction of the district court or seeks a remedy beyond the jurisdiction of the district court, the district court shall order the entire case removed to superior court.

(c) Claims in Excess of Jurisdiction — Orders and Process. If a case is removed to the superior court under section (b) of this rule, the superior court may issue all necessary orders and process as provided in RCW 4.14-.030.

(d) Claims in Excess of Jurisdiction — Improper Removal. If it appears that a case has been improperly removed to the superior court under section (b) of this rule, the superior court shall remand the case as provided in RCW 4.14.030.

(e) Claims in Excess of Jurisdiction — Attached Property; Custody. If property of a defendant is attached or garnished prior to the removal of a case, the attachment or garnishment shall be transferred with the removed case to the superior court and shall be held to answer the final judgment or decree in the same manner as it would have been held to answer had the cause been brought in the superior court originally.

RULE 15

AMENDED AND SUPPLEMENTAL PLEADINGS

~~**(a) Amendments Prior to Trial.** A party may amend a complaint, counterclaim, cross claim or third party complaint once as a matter of course at any time before a responsive pleading is made, or, if the pleading is an answer or a reply to a counterclaim he may so amend it at any time within 20 days after it is served, provided it is amended prior to trial. Otherwise, prior to trial a party may amend his pleading only by leave of court or by written consent of the adverse party, and leave shall be freely given when justice so requires.~~

(a) Amendments. A party may amend his pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he may so amend it at any time within 20 days after it is served. Otherwise, a party may amend his pleading only by leave of court or by written consent of the adverse party, and leave shall be freely given when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service or notice of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) Amendments At or After the Trial To Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues.

If the evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) Relation Back of Amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve or make a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead thereto, to the supplemental pleading, it shall so order, specifying the time therefor.

(e) **Interlineations.** No amendments shall be made to any pleading by erasing or adding words to the original on file, ~~except by permission of~~ without first obtaining leave of the court.

Comment

The new rule is the same as the rule applicable in superior court. The amendments to the old rule are relatively minor and should make no appreciable change in practice.

RULE 16

[RESERVED]

Comment

The old rule is no longer necessary and is deleted. Garnishments are covered in detail by RCW 7.33 and SPR 91.04W.

4. PARTIES
(RULES 17–25)

RULE 17

PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

(–) Designation of Parties. The party commencing the action shall be known as the plaintiff, and the opposite party as the defendant.

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest, ~~but~~ An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Infants or Incompetent Persons.

(1) When an infant is a party he shall appear by guardian, or if he has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint a guardian ad litem. The guardian shall be appointed:

(i) when the infant is plaintiff, upon the application of the infant, if he be of the age of 14 years, or if under the age, upon the application of a relative or friend of the infant;

(ii) when the infant is defendant, upon the application of the infant, if he be of the age of 14 years, and applies within the time he is to appear; if he be under the age of 14, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

(2) When an insane person is a party to an action he shall appear by guardian, or if he has no guardian, or in the opinion of the court the guardian is an improper

person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed:

(i) when the insane person is plaintiff, upon the application of a relative or friend of the insane person;

(ii) when the insane person is defendant, upon the application of a relative or friend of such insane person, such application shall be made within the time he is to appear. If no such application be made within the time above limited, application may be made by any party to the action.

Comment

The first two sections of the new rule are the same as the first two sections of the rule applicable in superior court. The only change of substance over the old rule is that the new rule makes it clear that an action should not be summarily dismissed for failure to join a real party in interest.

Section (b) is the same as section (b) in the old rule. The section needs to be more detailed than the rule applicable in superior court because the statutes that address the subject in superior court do not apply to courts of limited jurisdiction.

RULE 18

JOINDER OF CLAIMS AND REMEDIES

(a) Joinder of Claims. ~~The plaintiff in his complaint or in reply setting forth a counterclaim and the defendant in an answer setting forth a counterclaim may join either as independent or as alternate claims as many claims either legal or equitable or both as he may have against an opposing party. There may be a like joinder of claims when there are multiple parties if the requirements of rules 19, 20, and 22 are satisfied. There may be a like joinder of cross claims or third party claims if the requirements of rules 13 and 14 respectively are satisfied. A party asserting a claim to relief as an original claim, counterclaim, cross claim, or third party claim, may join, either as independent or as alternate claims, as many claims as he has against an opposing party.~~

(b) Joinder of Remedies. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties.

Comment

Section (a) is amended to conform to the rule applicable in superior court. The amendments are largely matters of style. Equitable and maritime claims, mentioned in the rule, are outside the jurisdiction of the courts of limited jurisdiction.

Section (b) is the same as section (b) in the old rule. A second sentence in the superior court rule, relating to an action to set aside a fraudulent conveyance, is omitted because the subject matter is outside the jurisdiction of the courts of limited jurisdiction.

RULE 19

**JOINDER OF PERSONS NEEDED
FOR JUST ADJUDICATION**

(a) Persons To Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded

among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

(b) Determination by Court Whenever Joinder Not Feasible. If a person joinable under (1) or (2) of section (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the person's absence will be adequate; (4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(c) Pleading Reasons for Nonjoinder. A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons joinable under (1) or (2) of section (a) hereof who are not joined, and the reasons why they are not joined.

(d) [Reserved.]

(e) Husband and Wife Must Join—Exceptions. RCW 4.08.030 applies to the joinder of spouses.

Comment

The new rule is the same as the rule applicable in superior court. The old rule was adopted in 1963 and was never amended to conform to the 1967 version of the superior court rule.

Section (d) of the superior court rule, relating to class actions, is omitted because class actions are not authorized in courts of limited jurisdiction.

RULE 20

PERMISSIVE JOINDER OF PARTIES

(a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to all of ~~them~~ these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of

law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

~~RCW 4.08.040 applies to joinder of husband and wife.~~

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

(c) When Husband and Wife May Join. [Reserved. See RCW 4.08.040.]

(d) Service on Joint Defendants; Procedure After Service. When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

(1) If the action is against the defendants jointly indebted upon a contract, he may proceed against the defendants served unless the court otherwise directs; and if he recovers judgment it may be entered against all the defendants thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the defendants served.

(2) If the action is against defendants severally liable, he may proceed against the defendants served in the same manner as if they were the only defendants.

(3) Though all the defendants may have been served with the summons, judgment may be taken against any of them severally, when the plaintiff would be entitled to judgment against such defendants if the action had been against them alone.

(e) Procedure To Bind Joint Debtor. RCW 4.68 applies to the enforcement of a judgment against a joint debtor.

Comment

The new rule is the same as the rule applicable in superior court. Except for sections (d) and (e), the differences between the old rule and the new rule are only matters of style. Sections (d) and (e) address a subject not previously addressed in the rules for courts of limited jurisdiction.

RULE 21

MISJOINDER AND NONJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

Comment

The new rule is the same as the old rule. It is identical to the rule applicable in superior court.

RULE 22
INTERPLEADER

(a) **Scope Rule.** Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted under other rules and statutes.

(b) ~~Other Remedies Statutes.~~ The remedy herein provided is in addition to and in no way supersedes or limits the remedy provided by RCW 4.08.150 to 4.08.180, inclusive.

Comment

The new rule is the same as the rule applicable in superior court. The only differences between the new rule and the old rule are in the captions on the sections.

RULE 23
[RESERVED]

Comment

The corresponding rule in superior court relates to class actions, which are not authorized in courts of limited jurisdiction.

RULE 24
INTERVENTION

(a) **Intervention of Right.** Upon timely application, anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) ~~when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action, when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.~~ or (3) ~~when the applicant is so situated as to be adversely affected by a distribution or other disposition of property which is in the custody or subject to the control or disposition of the court.~~

(b) **Permissive Intervention.** Upon timely application, anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirements, or agreement

issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) **Procedure.** A person desiring to intervene shall serve a motion to intervene upon all parties ~~affected thereby as provided in rule 5.~~ The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

Comment

The new rule is the same as the rule applicable in superior court. The differences between the old rule and the new rule are in section (a). In the old rule, section (a) was based upon the 1960 rule in superior court. The superior court rule was amended in 1967, but no corresponding change was made in the justice court rule. The new rule incorporates the 1967 amendments. The amendments are unlikely to make an appreciable change in practice.

RULE 25
SUBSTITUTION OF PARTIES

(a) **Death.**

(1) **Procedure.** If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided by statute rule 5 for service of notices, and upon persons not parties in the manner provided by these rules statute or by rule for the service of notice and complaint a summons. If substitution is not made within a reasonable time the time authorized by law, the action may be dismissed as to the deceased party.

(2) **Partial Abatement.** In the event of the death of one or more of the plaintiffs or one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The ~~fact of death shall be noted in the docket suggested upon the record and the action shall proceed in favor of or against the surviving parties.~~

(b) **Incompetency.** If a party becomes incompetent, the court upon motion served as provided in section (a) of this rule may allow the action to be continued by or against his representative.

(c) **Transfer of Interest.** In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in section (a) of this rule.

(d) **Public Offices; Death or Separation From Office.**
[Reserved.]

Comment

The new rule is the same as the rule applicable in superior court. The differences between the old rule and the new rule are in section

(a) and reflect the fact that a summons is now used instead of a notice of suit.

5. DEPOSITIONS AND DISCOVERY
(RULES 26–37)

RULE 26

DEPOSITIONS PENDING ACTION

The taking of depositions, the requesting of admissions and all other procedures authorized by rules 26 through 37 of the Superior Court Civil Rules applicable for use in the superior court may be available only upon prior permission of the court. The court shall have absolute discretion to decide whether to permit any such procedures. In exercising such discretion the court shall consider (1) whether all parties are represented by counsel, (2) whether undue expense or delay in bringing the case to trial will result and (3) whether the interests of justice will be promoted.

Comment

The new rule is substantially the same as the old rule. The relatively small amounts of money involved and the fact that many parties appear without counsel make it appropriate for the court to maintain control over discovery.

RULES 27–37

[RESERVED]

6. TRIALS
(RULES 38–53)

RULE 38

JURY TRIAL

(a) **Demand.** When a trial by jury is authorized by the constitution, statutes, or decisions of the Supreme Court, any party may demand a jury which shall be selected and impaneled as required by law and this rule. At or prior to the time the case is called to be set for trial, or at such other time as directed by the court, any party may demand a jury trial of any issue triable by a jury by serving upon the other parties a demand therefor in writing, by filing the demand with the clerk, and by paying any required jury fee.

(b) **Specification of Issues.** In the demand a party may specify the issues which it wishes tried by a jury; otherwise, the demand shall be considered a demand for all issues so triable. If the demand requests jury trial of only some of the issues, any other party within 14 days of service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(c) **Waiver of Jury Trial.** The failure of a party to serve a demand as required by this rule, to file it as required by this rule, and to pay the required jury fee in accordance with this rule, constitutes a waiver of trial by jury. A demand for trial by jury once made may not be withdrawn without the consent of the parties.

(d) **Impaneling the Jury.**

(1) *Voir Dire.* A voir dire examination shall be conducted for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of peremptory challenges. The judge shall initiate the voir dire examination by identifying the parties and their respective counsel and by briefly outlining the nature of the case. The judge and the parties may then ask the prospective jurors questions touching their qualifications to serve as jurors in the case, subject to the supervision of the court as appropriate to the facts of the case.

(2) *Challenges for Cause.* If the court is of the opinion that grounds for challenge to a juror exist, it shall excuse that juror. Otherwise, any party may challenge the juror for cause. Challenges for cause shall be allowed as provided in RCW 4.44.150 through 4.44.190.

(3) *Peremptory Challenges.* The number and the manner of exercising peremptory challenges shall be as provided in RCW 4.44.130, 4.44.140, and 4.44.190.

(4) *Order of Taking Challenges.* [Reserved. See RCW 4.44.220.]

(5) *Objections to Challenges.* [Reserved. See RCW 4.44.230.]

(6) *Trial of Challenge.* [Reserved. See RCW 4.44.240.]

(e) **Alternate Jurors.** The court may direct that not more than three jurors in addition to the regular jury be called and impaneled to serve as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, are unable to continue. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges for cause, and shall take the same oath as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Each party shall be entitled to one additional peremptory challenge which may only be exercised against alternate jurors, and other peremptory challenges allowed shall not be used against alternate jurors. If the court has found that there is a conflict of interest between parties on the same side, the court may allow each conflicting party a peremptory challenge to exercise against alternate jurors.

(f) **Juries of Fewer Than Six.** The parties may at any time stipulate that the jury shall consist of at least three but fewer than six jurors, or that a verdict of a stated majority shall be taken as the verdict or finding of the jury.

(g) **Oath.** [Reserved. See RCW 4.44.260.]

(h) **Notetaking by Jurors.** With the permission of the trial judge, jurors may take written notes regarding the evidence presented to them and keep these notes with them when they retire for their deliberation. Such notes should be treated as confidential between the jurors making them and their fellow jurors, and shall be destroyed immediately after the verdict is rendered.

Comment

The new rule is patterned after Superior Court Civil Rules 38, 47, 48, and 49 and Superior Court Criminal Rule 6.4. The rule is necessary because RCW 2.36.050 was amended in 1980 to require that a jury in a court of limited jurisdiction be selected and impaneled in the same manner as in superior court.

The new rule was discussed and approved by the Judicial Council in 1981.

RULE 39

[RESERVED]

Comment

The old rule is no longer necessary and is deleted. The point addressed by section (a) of the old rule is covered in the state constitution, article 4, section 16. The point addressed by section (b) of the old rule is now covered in ER 104.

RULE 40

~~ASSIGNMENT OF CASES FOR TRIAL—
JUDGE, DISQUALIFICATION~~

~~(a) Assignment for Trial. When the pleadings of the parties have taken place a case shall be tried, but cases may be continued by the court to a date certain. Continuances may not be granted for a longer period than 60 days each.~~

~~(a) Notice of Trial—Note of Issue.~~

~~(1) Of Fact. At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least 3 days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least 5 days before the day of setting such causes for trial, file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.~~

~~(2) Of Law. In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least 5 days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.~~

~~(3) Adjournments. When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court.~~

(4) *Filing Note by Opposite Party.* The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice on his part.

(5) *Issue May Be Brought to Trial by Either Party.* Either party, after the notice of trial, whether given by himself or the adverse party, may bring the issue to trial, and in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with his case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

(b) *Methods.* Each court of limited jurisdiction may provide by local rule for placing of actions upon the trial calendar (1) without request of the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deems expedient.

(c) *Preferences.* In setting cases for trial, unless otherwise provided by statute, preference shall be given to criminal over civil cases, and cases where the defendant or a witness is in confinement shall have preference over other cases.

(d) *Trials.* When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a continuance. The court may in a proper case, and upon terms, reset the same.

(e) *Continuances.* A motion to continue a trial on the ground of the absence of evidence shall only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it, and also the name and address of the witness or witnesses. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain; and if the adverse party admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be continued. The court, upon its allowance of the motion, may impose terms or conditions upon the moving party.

~~(b) Disqualification: (f) Change of Judge.~~ In any case pending in any court of limited jurisdiction, unless otherwise provided by law, the judge thereof shall be deemed disqualified to hear and try the case when he is in anywise interested or prejudiced. The judge, of his own initiative, may enter an order disqualifying himself; and he shall also disqualify himself under the provisions of this rule if, before the jury is sworn or the trial is commenced, a party files an affidavit that such party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge or for other ground provided by law. Only one such affidavit shall be filed by the same party in the case and such affidavit shall be made as to only one of the judges of said court.

All right to an affidavit of prejudice will be considered waived where filed more than 10 days after the case is set for trial, unless the affidavit alleges a particular incident, conversation or utterance by the judge, which was not known to the party or his attorney within the 10-day period. In multiple judge courts, or where a pro tempore or visiting judge is designated as the trial judge, the 10-

day period shall commence on the date that the defendant or his attorney has actual notice of assignment or reassignment to a designated trial judge.

Comment

The new rule is the same as the rule applicable in superior court, with only minor exceptions. The reference to "superior court" in section (b) is changed to "court of limited jurisdiction." Section (f) is added to the superior court rule and is the same as section (b) in the old justice court rule.

The new rule adopts the superior court practice of setting hearing dates on the basis of a notice served and filed by a party. Section (b) allows each court to establish the procedural details by local rule.

RULE 41

DISMISSAL OF ACTIONS

(a) Voluntary Dismissal.

(1) *Mandatory.* Any action shall be dismissed by the court:

(i) By stipulation. When all parties who have appeared so stipulate in writing; or

(ii) By plaintiff before resting. Upon motion of the plaintiff at any time before plaintiff rests at the conclusion of his opening case.

(2) *Permissive.* After plaintiff rests after his opening case, plaintiff may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the court deems proper.

(3) *Counterclaim.* If a counterclaim has been pleaded by a defendant prior to the service upon him of plaintiff's motion for dismissal, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court.

(4) *Effect.* Unless otherwise stated in the order of dismissal, the dismissal is without prejudice, except that an order of dismissal operates as an adjudication upon the merits when obtained by a plaintiff who has once dismissed an action based on or including the same claim in any court of the United States or of any state.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him.

(1) *Want of Prosecution on Motion of Party.* Any civil action shall be dismissed, without prejudice, for want of prosecution whenever the plaintiff, counterclaimant, cross claimant, or third party plaintiff neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

(2) *Dismissal on Clerk's Motion.*

(i) Notice. In all civil cases wherein there has been no action of record during the 12 months just past, the clerk of the court shall mail notice to the attorneys of record that such case will be dismissed by the court for

want of prosecution unless within 30 days following said mailing, action of record is made or an application in writing is made to the court and good cause shown why it should be continued as a pending case. If such application is not made or good cause is not shown, the court shall dismiss each such case without prejudice. The cost of filing such order of dismissal with the clerk shall not be assessed against either party.

(ii) Mailing notice. The notice shall be mailed in every eligible case not later than 30 days before June 15 and December 15 of each year, and all such cases shall be presented to the court by the clerk for action thereon on or before June 30 and December 31 of each year. These deadlines shall not be interpreted as a prohibition against mailing of notice and dismissal thereon as cases may become eligible for dismissal under this rule.

(iii) Applicable date. This dismissal procedure is mandatory as to all cases filed after January 1, 1959, and permissive as to all cases filed before that date. This rule is not a limitation upon any other power that the court may have to dismiss any action upon motion or otherwise.

(3) *Defendant's Motion After Plaintiff Rests.* After the plaintiff, in an action tried by the court without a jury, has completed the presentation of his evidence, the defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in RALJ 5.2. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under rule 19, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross Claim, or Third Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross claim, or third party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of taxable costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) Notice of Settlements. If a case is settled after it has been assigned for trial, it shall be the duty of the attorneys or of any party appearing pro se to notify the court promptly of the settlement. If the settlement is made within 5 days before the trial date, the notice shall

be made by telephone or in person. All notices of settlement shall be confirmed in writing to the clerk.

Comment

The new rule is the same as the rule applicable in superior court, with only minor exceptions. A reference to rule 23 (Class Actions) is omitted from section (a)(1) because there is no rule 23 for courts of limited jurisdiction. A reference to "superior court" in section (b)(2)(i) is changed to "court." A reference to rule 52(a) in section (b)(3) is changed to RALJ 5.2, the counterpart in the rules for courts of limited jurisdiction.

The principal effect of the new rule is to shorten the time within which the plaintiff may obtain a voluntary dismissal. The old rule allowed the plaintiff to voluntarily dismiss any time before the case was finally submitted. The new rule allows a voluntary dismissal only until the plaintiff rests.

The new rule adopts the superior court practice of allowing the clerk to move to have dormant cases dismissed.

RULE 42

CONSOLIDATION; SEPARATE TRIALS

(a) **Consolidation.** When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) **Separate Trials.** The court in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross claim, counterclaim, or third party claim, or of any separate issue or of any number of claims, cross claims, counterclaims, third party claims, or issues, always preserving inviolate the right of trial by jury.

Comment

The new rule is the same as the rule applicable in superior court. It differs from the old rule in only minor respects.

RULE 43

TAKING OF TESTIMONY

(a) **Testimony.**

(1) *Generally.* In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute.

(2) *Multiple Examinations.* When two or more attorneys are upon the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

(b) and (c) [Reserved. See ER 103 and 611.]

(d) **Oaths of Witnesses.**

(1) *Administration.* The oaths of all witnesses

(i) shall be administered by the judge;

(ii) shall be administered to each witness individually; and

(iii) the witness shall stand while the oath is administered.

(2) *Applicability.* This rule shall not apply to civil ex parte proceedings, and in such cases the manner of swearing witnesses shall be as each court may prescribe.

(3) *Affirmation in Lieu of Oath.* Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(e) **Evidence on Motions.** When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(f) **Adverse Party as Witness.**

(1) *Party or Managing Agent as Adverse Witness.* A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association which is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in rule 30(a) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in rule 30(b), the court may make orders for the protection of the party or managing agent to be examined.

(2) *Effect of Discovery, etc.* A party who has filed interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. The testimony of an adverse party or managing agent at the trial or on deposition or interrogatories shall not bind his adversary but may be rebutted.

(3) *Refusal To Attend and Testify; Penalties.* If a party or a managing agent refuses to attend and testify before the officer designated to take his deposition or at the trial after notice served as prescribed in rule 30(a), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(i) to compel any person to answer any question where such answer might tend to incriminate him;

(ii) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(iii) to limit the applicability of any other sanctions or penalties provided in rule 37 or otherwise for failure to attend and give testimony.

(g) **Attorney as Witness.** If any attorney offers himself as a witness on behalf of his client and gives evidence on the merits, he shall not argue the case to the jury, unless by permission of the court.

(h) Recording as Evidence. Whenever the testimony of a witness at a trial or hearing which was recorded is admissible in evidence at a later trial, it may be proved by the recording thereof duly certified by the person who recorded the testimony.

(i) [Reserved. See ER 804.]

(j) Record in Retrial of Nonjury Cases. In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and such cause shall have been tried without a jury, and the testimony in such cause shall have been taken in full and used as the record upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said record as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by him in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of subpoenaing any witness whose testimony is contained in such record for further cross examination.

Comment

The new rule is the same as the rule applicable in superior court, with only minor exceptions. A reference to superior court has been omitted in section (d)(1). References to default divorces and the superior court have been omitted in section (d)(2). Section (e)(2), relating to injunctions, attachments, and receiverships in the superior court rule, has been omitted. References to a transcript of testimony in section (h) have been changed to refer to a recording of testimony because a typewritten transcript is not required under RALJ. References to a report of proceedings have likewise been changed to refer to a recording of testimony in section (j).

The new rule differs from the old rule more in form than in substance. The principal difference is that the new provisions in sections (h) and (j) clarify the relationship between the rule and the tape recording that is made under RALJ.

RULE 44

PROOF OF OFFICIAL RECORD

(a) Authentication.

(1) *Domestic.* An official record kept within the United States, or any state, district, commonwealth, territory, or insular possession thereof, or within the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office or official custody of the seal of the political subdivision and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office or the seal of the political subdivision.

(2) *Foreign.* A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, either admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records, designated by the statement, authenticated as provided in subsection (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subsection (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This rule does not prevent the proof of official records or of entry or lack of entry therein by any other method authorized by law.

Comment

The new rule is the same as the rule applicable in superior court. It is more detailed than the old rule but should make no appreciable change in practice. Additional methods of authentication are defined by ER 901 and 902.

RULE 44.1

DETERMINATION OF FOREIGN LAW

(a) Pleading. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States, or a foreign country shall give notice in his pleadings in accordance with rule 9(k).

(b) United States Jurisdiction. The law of a state, territory, or other jurisdiction of the United States shall be determined as provided in RCW 5.24.

(c) Other Jurisdictions. The court, in determining the law of any jurisdiction other than a state, territory, or other jurisdiction of the United States, may consider any relevant written material or other source, including testimony, having due regard for their trustworthiness, whether or not submitted by a party and whether or not admissible under the Rules of Evidence. If the court considers any material or source not received in open court, prior to its determination the court shall:

(1) Identify in the record such material or source;

(2) Summarize in the record any unwritten information received; and

(3) Afford the parties an opportunity to respond thereto. The court's determination shall be treated as a ruling on a question of law.

Comment

The new rule addresses a subject that was not previously addressed in the rules for courts of limited jurisdiction. It is the rule followed in superior court including the newly adopted provisions concerning proof of the law of another state. The latter provisions are necessary because RCW 5.24.040 was amended in 1981 to delete the statutory provisions relating to pleading requirements. The Legislature intended that the matter be governed instead by court rule.

RULE 45
SUBPOENA

(a) For Attendance of Witnesses. The subpoena shall be issued as follows:

(1) *Form.* To require attendance before a court of limited jurisdiction or at the trial of an issue therein, such subpoena may be issued in the name of the State of Washington by the court before which the attendance is required or in which the issue is pending: *Provided*, That such subpoena may be issued with like effect by the attorney of record of the party to the action on whose behalf the witness is required to appear, and the form of such subpoena in each case may be the same as when issued by the court except that it shall only be subscribed by the signature of such attorney.

(2) *Issuance for Trial.* To require attendance before a court of limited jurisdiction or at the trial of an issue of fact, the subpoena may be issued by the clerk in response by a praecipe or by an attorney of record.

(3) *Issuance for Deposition.* To require attendance out of such court before a judge, justice of the peace, commissioner, referee or other officer authorized to administer oaths or to take testimony in any matter under the laws of this state, it shall be issued by an attorney of record or by such judge, justice of the peace, commissioner, referee or other officer before whom the attendance is required.

(b) For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) Service. A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him a copy thereof, or by leaving such copy at the place of his abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit.

(d) Subpoena for Taking Depositions; Place of Examination.

(1) Proof of service of a notice to take a deposition as provided in CR 30(b) and 31(a) constitutes a sufficient

authorization for the issuance by the attorney of record or the officer taking the deposition of subpoenas for the persons named or described therein. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by rule 26, but in that event the subpoena will be subject to the provisions of section (b) of this rule.

The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

(2) *Place of Examination.* A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend only in the county wherein he is served with a subpoena, or within 40 miles from the place of service or at such other convenient place as is fixed by an order of the court.

(3) *Foreign Depositions for Local Actions.* When the place of examination is in another state, territory, or country, the party desiring to take the deposition may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory or country to require the deponent to attend the examination.

(4) *Local Depositions for Foreign Actions.* When any officer or person is authorized to take depositions in this state by the law of another state, territory or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any judge or justice of the peace of this state for attendance at any places within his jurisdiction.

(e) Subpoena for Hearing or Trial. [Reserved. See RCW 5.56.010.]

(f) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued.

(g) When Excused. A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as he has given his testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders; and witness fees will not be allowed any witness after the day on which his testimony is given, except when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact in the minutes.

RULE 46**EXCEPTIONS UNNECESSARY**

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

Comment

The new rule is the same as the rule applicable in superior court. Until now, the rule was unnecessary because review was by trial de novo. The rule is now appropriate because the trial de novo has been eliminated in favor of review on the record.

RULE 47**JURORS**

(a) **Examination, Selection, etc.** See rule 38.

(b) **Care of Jury While Deliberating.**

(1) *Generally.* During trial and deliberations the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury.

(2) *Communication Restricted.* Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor make any himself, unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.

(3) *Motions.* Any motions or proceedings concerning the separation or sequestration of the jury shall be made out of the presence of the jury.

Comment

Section (b) is the same language as the newly adopted change to CR 47(i). It would supersede RCW 2.36.140 and 4.44.300.

RULE 48**JURIES OF FEWER THAN SIX**

[Reserved. See RCW 12.12.030.]

RULE 49**VERDICTS**

(-) **General Verdict.** A general verdict is that by which the jury pronounces generally upon all or any of the issues in favor of either the plaintiff or defendant.

(a) **Special Verdict.** The court may require a jury to return only a special verdict in the form of a special

written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his rights to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

(b) **General Verdict Accompanied by Answer to Interrogatories.** The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered pursuant to rule 58. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered pursuant to rule 58 in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

(c) **Discharge of Jury.** [Reserved. See RCW 12.12.080 and 12.12.090.]

(d) **Court Recess During Deliberation.** [Reserved. See RCW 4.44.350.]

(e) **Proceedings When Jury Has Agreed.** [Reserved. See RCW 4.44.360.]

(f) **Manner of Giving Verdict.** [Reserved. See RCW 4.44.370.]

(g) **Verdict by Five Jurors in Civil Cases.** [Reserved. See RCW 4.44.380.]

(h) **Jury May Be Polled.** [Reserved. See RCW 4.44.390.]

(i) **Correction of Informal Verdict.** [Reserved. See RCW 4.44.400.]

(j) **Jury To Assess Amount of Recovery.** [Reserved. See RCW 4.44.450.]

(k) **Receiving Verdict and Discharging Jury.** [Reserved. See RCW 12.12.080 and 12.12.090.]

Comment

The new rule is substantially the same as the rule applicable in superior court. In sections (c) through (k), statutory references have been changed to the corresponding statutes in Title 12 where such statutes exist. If no statute in Title 12 governs, the Title 4 statute continues to be cited. Title 4 statutes seemingly apply in courts of limited jurisdiction if not in conflict with other statutes specially tailored to courts of limited jurisdiction. See RCW 3.66.010 (all laws of a general nature apply in justice court unless in conflict with justice court act).

RULE 50

MOTION FOR A DIRECTED VERDICT AND FOR JUDGMENT NOTWITHSTANDING THE VERDICT

(a) Motion for Directed Verdict; When Made; Effect.

A party who moves for a directed verdict at the close of the evidence offered by an opponent may offer evidence in the event that the motion is not granted, without having reserved the right so to do and to the same extent as if the motion had not been made. A motion for a directed verdict which is not granted is not a waiver of trial by jury even though all parties to the action have moved for directed verdicts. A motion for a directed verdict shall state the specific ground therefor.

(b) Motion for Judgment Notwithstanding the Verdict.

Not later than 10 days after the entry of judgment or after the jury is discharged if no verdict is returned, whether or not he has moved for a directed verdict and whether or not a verdict was returned, a party may move for judgment notwithstanding the verdict. A motion for judgment notwithstanding the verdict shall identify the specific reasons in fact and law as to each ground on which the motion is based. A motion in the alternative for a new trial may be joined with this motion.

(c) Alternative Motions for Judgment Notwithstanding the Verdict or for a New Trial—Effect of Appeal.

Whenever a motion for a judgment notwithstanding the verdict and, in the alternative, for a new trial shall be filed and submitted in any superior court in any civil cause tried before a jury, and such superior court shall enter an order granting such motion for judgment notwithstanding the verdict, such court shall at the same time, in the alternative, pass upon and decide in the same order such motion for a new trial; such ruling upon said motion for a new trial not to become effective unless and until the order granting the motion for judgment notwithstanding the verdict shall thereafter be reversed, vacated, or set aside in the manner provided by law. An appeal to the superior court from a judgment granted on a motion for judgment notwithstanding the verdict shall, of itself, without the necessity of cross appeal, bring up for review the ruling of the trial court on the motion for a new trial; and the superior court shall, if it reverses the judgment entered notwithstanding the verdict, review and determine the validity of the ruling on the motion for a new trial.

RULE 51

INSTRUCTIONS TO JURY AND DELIBERATION

(a) Proposed. Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions

shall be submitted when the case is called for trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before the court has instructed the jury.

(b) Submission. Submission of proposed instructions shall be by delivering the original and three or more copies as required by the trial judge, by filing one copy with the clerk, identified as the party's proposed instructions, and by serving one copy upon each opposing counsel.

(c) Form. Each proposed instruction shall be typewritten or printed on a separate sheet of letter-size (8½ by 11 inches) paper. Except for one copy of each, the instructions delivered to the trial court shall not be numbered or identified as to the proposing party. One copy delivered to the trial court, and the copy filed with the clerk, and copies served on each opposing counsel shall be numbered and identified as to proposing party, and may contain supporting annotations.

(d) Published Instructions.

(1) Request. Any instruction appearing in the Washington Pattern Instructions (WPI) may be requested by counsel who must submit the proper number of copies of the requested instruction, identified by number as in section (c) of this rule, in the form he wishes it read to the jury. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the written requested instruction shall use the choice of wording which is being requested.

(2) Record on Review. Where the refusal to give a requested instruction is an asserted error on review, a copy of the requested instruction shall be placed in the record on review.

(3) Local Option. Any court of limited jurisdiction may adopt a local rule to substitute for subsection (d)(1) and to allow instructions appearing in the Washington Pattern Instructions (WPI) to be requested by reference to the published number. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the local rule must require that the written request which designates the number of the instruction shall also designate the choice of wording which is being requested.

(e) Disregarding Requests. The trial court may disregard any proposed instruction not submitted in accordance with this rule.

(f) Objections to Instruction. Before instructing the jury, the court shall supply counsel with copies of its proposed instructions which shall be numbered. Counsel shall then be afforded an opportunity in the absence of the jury to make objections to the giving of any instruction and to the refusal to give a requested instruction. The objector shall state distinctly the matter to which he objects and the grounds of his objection, specifying the number, paragraph or particular part of the instruction to be given or refused and to which objection is made.

(g) Instructing the Jury and Argument. After counsel have completed their objections and the court has made any modifications deemed appropriate, the court shall then provide each counsel with a copy of the instructions

in their final form. The court shall then read the instructions to the jury. The plaintiff or party having the burden of proof may then address the jury upon the evidence, and the law as contained in the court's instructions; after which the adverse party may address the jury; followed by the rebuttal of the party first addressing the jury.

(h) Deliberation. After argument, the jury shall retire to consider its verdict. In addition to the written instructions given, the jury shall take with it all exhibits received in evidence, except depositions. Copies may be substituted for any parts of public records or private documents as ought not, in the opinion of the court, to be taken from the person having them in possession. Pleadings shall not go to the jury room.

(i) Further Instructions. After retirement for deliberation, if the jury desires to be informed on any point of law, the judge may require the officer having them in charge to conduct them into court. Upon the jury's being brought into court, the information requested, if given, shall be given in the presence of, or after notice to the parties or their counsel. Any additional instruction upon any point of law shall be given in writing.

(j) Comments Upon Evidence. Judges shall not instruct with respect to matters of fact, nor comment thereon.

Comment

The new rule is the same as the rule applicable in superior court except that the reference to "superior court" in section (d)(3) has been changed to "court of limited jurisdiction." The additional detail in the new rule is appropriate because the trial de novo has been eliminated in favor of an appeal on the record.

The use of the Washington Pattern Jury Instructions is encouraged.

RULE 52

FINDINGS BY THE COURT

[Reserved. See RALJ 5.2.]

Comment

The extent to which the court must enter findings of fact and conclusions of law is governed by RALJ 5.2.

RULE 53

MASTERS

[RESERVED]

RULE 53.1

REFEREES

[RESERVED]

RULE 53.2

COURT COMMISSIONERS

[Reserved. See RCW 3.42.]

7. JUDGMENTS
(RULES 54-63)

RULE 54

JUDGMENTS; COSTS

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any final order from which an appeal lies. A judgment shall not contain a recital of pleadings or the record of prior proceedings. Judgments may be in a writing signed by the court or may be oral confirmed by an entry in the record.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment upon as to one or more but less fewer than all of the claims or parties only upon an express determination in the judgment that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decisions, however designated, which adjudicates less fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

(d) Costs. Costs shall be fixed and allowed as provided in RCW 12.20.060 or by any other applicable statute.

Comment

Section (a) of the new rule is the same as section (a) in the old rule. The rule is necessarily different from the rule in superior court because RALJ 5.2 permits the judge in a court of limited jurisdiction to state findings, conclusions, and a decision orally.

Sections (b), (c), and (d) are amended to conform to the rule applicable in superior court, with an appropriate change in the statute mentioned in section (d). The new provisions in section (b) are appropriate because of the liberalized provisions concerning third party practice in rule 14.

Sections (e) and (f) in the superior court rule, relating to the presentation of a written judgment, are omitted.

RULE 55

DEFAULT

(a) Entry of Default.

(1) *Motion.* When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit, a motion for default may be made.

(2) *Pleading After Default.* Any party may respond to any pleading or otherwise defend at any time before a

motion for default and supporting affidavit is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed he may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this rule 55.

(3) *Notice.* Any party who has appeared in the action for any purpose, shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitled to a notice of the motion, except as provided in subsection (f)(2)(i).

(4) *Venue.* A motion for default shall include a statement of the basis for venue in the action. A default shall not be entered if it clearly appears to the court from the papers on file that the action was brought in an improper district.

(b) *Entry of Default Judgment.* As limited in rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by subsection (b)(4):

(1) *When Amount Certain.* When the claim against a party, whose default has been entered under section (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit of the amount due shall enter judgment for that amount and costs against the party in default, if he is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this subsection even though reasonable attorney fees are requested and allowed.

(2) *When Amount Uncertain.* If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as are deemed necessary or, when required by statute, shall have such matters resolved by a jury. Findings of fact and conclusions of law are required under this subsection.

(3) *When Service by Publication or Mail.* In an action where the service of the summons was by publication, or by mail under rule 4(d)(4), the plaintiff, upon the expiration of the time for answering, may, upon proof of service, apply for judgment. The court must thereupon require proof of the demand mentioned in the complaint, and must require the plaintiff or his agent to be examined on oath respecting any payments that have been made to the plaintiff, or to anyone for his use on account of such demand, and may render judgment for the amount which he is entitled to recover, or for such other relief as he may be entitled to.

(4) *Costs and Proof of Service.* Costs shall not be awarded and default judgment shall not be rendered unless proof of service is on file with the court.

(c) **Setting Aside Default.**

(1) *Generally.* For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with rule 60(b).

(2) *When Venue Is Improper.* A default judgment entered in a district of improper venue is valid but will on motion be vacated for irregularity pursuant to rule 60(b)(1). A party who procures the entry of the judgment shall, in the vacation proceedings, be required to pay to the party seeking vacation the costs and reasonable attorney fees incurred by the party in seeking vacation if the party procuring the judgment could have determined the district of proper venue with reasonable diligence. This subsection does not apply if either (i) the parties stipulate in writing to venue after commencement of the action, or (ii) the defendant has appeared, has been given written notice of the motion for an order of default, and does not object to venue before the entry of the default order.

(d) **Plaintiffs, Counterclaimants, Cross Claimants.** The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third party plaintiff, or a party who has pleaded a cross claim or counterclaim. In all cases a judgment by default is subject to the limitations of rule 54(c).

(e) **Judgment Against State.** [Reserved.]

(f) **How Made After Elapse of Year.**

(1) *Notice.* When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit of the service of the notice shall be filed before entry of the judgment.

(2) *Service.* Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

- (i) by service upon the attorney of record;
- (ii) if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or
- (iii) by a personal service upon the defendant in the same manner provided for service of process.
- (iv) If service of notice cannot be made under sections (i) and (iii), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each defendant. Both the publication and mailing shall be done 10 days prior to the hearing.

Comment

The new rule is the same as the rule applicable in superior court, except that references to venue in an "improper county" have been changed to venue in an "improper district." The rule adopts the 2-step default procedure used in superior court and addresses a number of procedural details that were not covered in the old rule.

RULE 56**SUMMARY JUDGMENT**

(a) **For Claimant.** A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, at any time after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) **For Defending Party.** A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) **Motion and Proceedings.** The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party, prior to the day of hearing, may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) **Case Not Fully Adjudicated on Motion.** If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) **Form of Affidavits; Further Testimony; Defense Required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) **When Affidavits Are Unavailable.** Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) **Affidavits Made in Bad Faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

Comment

The new rule is the same as the rule applicable in superior court. It makes it clear that a party may move for summary judgment in a court of limited jurisdiction. The procedure was not addressed in the old rules.

RULE 57**[RESERVED]****Comment**

The corresponding superior court rule concerns declaratory judgments and is inappropriate for courts of limited jurisdiction because they have no authority to enter declaratory judgments. RCW 7.24.146.

RULE 58**ENTRY OF JUDGMENT**

Upon the verdict of a jury, the court shall immediately render judgment thereon. If the trial is by the judge, judgment shall be entered immediately after the close of the trial, unless he reserves his decision, in which event the trial shall be continued to a day certain, but not longer than 15 days.

Comment

The new rule is the same as the old rule. The date of entry is defined elsewhere in RALJ 2.5.

RULE 59**NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS**

(a) **Grounds for New Trial or Reconsideration.** The verdict or other decision may be vacated and a new trial granted to all or any of the parties and on all or part of the issues when such issues are clearly and fairly separable and distinct, on the motion of the party aggrieved for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial;

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

(6) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

(7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

(8) Error in law occurring at the trial and objected to at the time by the party making the application;

(9) That substantial justice has not been done.

(b) Time for Motion; Contents of Motion. A motion for a new trial or for reconsideration shall be served and filed not later than 10 days after the entry of the judgment.

A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) Time for Serving Affidavits. When a motion for new trial is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation. The court may permit reply affidavits.

(d) On Initiative of Court. Not later than 10 days after entry of judgment, the court of its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party, and in the order shall specify the grounds thereof.

(e) Hearing on Motion. When a motion for reconsideration or for a new trial is served and filed, the judge by whom it is to be heard may on his own motion or on application determine:

(1) *Time of Hearing.* Whether the motion shall be heard before the entry of judgment;

(2) *Consolidation of Hearings.* Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and

(3) *Nature of Hearing.* Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

(f) Statement of Reasons. In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

(g) Reopening Judgment. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law, and direct the entry of a new judgment.

(b) Motion To Alter or Amend Judgment. A motion to alter or amend the judgment shall be served not later than 10 days after entry of the judgment.

(i) Alternative Motions, etc. Alternative motions for judgment notwithstanding the verdict and for a new trial may be made in accordance with rule 50(c).

(j) Limit on Motions. If a motion for reconsideration, or for a new trial, or for judgment notwithstanding the verdict, is made and heard before the entry of the judgment, no further motion may be made for a new trial nor pursuant to sections (g), (h), and (i) of this rule, nor under CR 52(b), without leave of court first obtained for good cause shown.

RULE 60

RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RALJ 4.1(b).

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings;

~~(3) Venue is improper and the judgment or order has been entered by default~~ Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b);

(4) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(5) The judgment is void;

(6) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer

equitable that the judgment should have prospective application;

(7) If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;

(8) Death of one of the parties before the judgment in the action;

(9) Unavoidable casualty or misfortune preventing the party from prosecuting or defending;

(10) Error in judgment shown by a minor, within 12 months after arriving at full age; or

(11) Any other reason justifying relief from the operation of the judgment.

(c) The motion shall be made within a reasonable time and for reasons (1), (2) or (3) ~~of section (b)~~ not more than 1 year after the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under section (b) does not affect the finality of the judgment or suspend its operation.

(c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.

(d) Writs Abolished—Procedure. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

(e) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit of the applicant or his attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a defendant, the facts constituting a defense to the action or proceeding.

(2) Notice. Upon the filing of the motion and affidavit, the court shall enter an order fixing the time and place of the hearing thereof and directing all parties to the action or proceeding who may be affected thereby to appear and show cause why the relief asked for should not be granted.

(3) Service. The motion, affidavit, and the order to show cause shall be served upon all parties affected in the same manner as in the case of summons in a civil action at such time before the date fixed for the hearing as the order shall provide; but in case such service cannot be made, the order shall be published in the manner and for such time as may be ordered by the court, and in such case a copy of the motion, affidavit, and order shall be mailed to such parties at their last known post office address and a copy thereof served upon the attorneys of record of such parties in such action or proceeding such time prior to the hearing as the court may direct.

Comment

The new rule is the same as the rule applicable in superior court, with only minor exceptions. The reference to RAP 7.2 in section (a) has been changed to RALJ 4.1(b), the corresponding rule for appeal from courts of limited jurisdiction. A reference to RCW 4.72.010-.090 at the end of the superior court rule has been omitted because the statute does not apply to courts of limited jurisdiction.

The provision deleted from subsection (b)(3) is now covered in rule 55.

Sections (c), (d), and (e) cover matters that were not previously addressed in the rules for courts of limited jurisdiction.

RULE 61

HARMLESS ERROR

[RESERVED]

Comment

Rule 61 is reserved in both the superior court rules and the rules for courts of limited jurisdiction. The rules concerning harmless error are found largely in decisional law.

RULE 62

STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) **Automatic Stays.** [Reserved. See RALJ 4.2.]

(b) **Stay on Motion for New Trial or for Judgment.** In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to rule 59, or of a motion for relief from a judgment or order made pursuant to rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to rule 50, or of a motion for amendment to the findings or for additional findings.

(c) [Reserved.]

(d) [Reserved.]

(e) [Reserved.]

(f) **Other Stays.** This rule does not limit the right of a party to a stay otherwise provided by statute or rule.

(g) [Reserved.]

(f) **Multiple Claims or Multiple Parties.** When a court has ordered a final judgment under the conditions stated in rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

Comment

The new rule is the rule applicable in superior court with only minor variations. Section (a) of the superior court rule has been deleted because automatic stays of execution are governed by RALJ 4.2. At the end of section (b), the words "made pursuant to rule 52(b)" have been deleted because there is no rule 52(b) in the new rules.

RULE 63

JUDGES—DISABILITY

If by reason of death, sickness or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

Comment

The new rule is the same as the rule applicable in superior court except that the reference to findings and conclusions being "filed" has been changed to findings and conclusions being "entered." This change is necessary because under RALJ 5.2, the court may state findings and conclusions on the record instead of filing them in writing.

8. PROVISIONAL AND FINAL REMEDIES
AND SPECIAL PROCEEDINGS
(RULES 64-71)

RULE 64

GARNISHMENT

[RESERVED]

Comment

The old rule is no longer necessary and is deleted. Garnishments are covered in detail by RCW 7.33 and SPR 91.04W.

RULES 65-67

[RESERVED]

Comment

The corresponding rules in superior court concern injunctions, receiverships, and the deposit of money with the clerk of court. The rules are unnecessary in courts of limited jurisdiction.

RULE 68

OFFER OF JUDGMENT

At any time more than 5 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 5 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

Comment

The new rule is the same as the rule applicable in superior court. The only differences between the new rule and the old justice court rule are that the time is extended from 5 to 10 days and the last sentence is added.

RULES 69-70

[RESERVED]

Comment

Rule 69 in the superior court rules concerns execution and supplemental proceedings. The rule is unnecessary in courts of limited jurisdiction because these matters are governed by statute.

Rule 70 in the superior court rules concerns specific performance and the vesting of title. The rule relates primarily to matters outside the jurisdiction of courts of limited jurisdiction.

RULE 71

WITHDRAWAL BY ATTORNEY

(a) **Withdrawal by Attorney.** Service on an attorney who has appeared for a party in a civil proceeding shall be valid to the extent permitted by statute and rule 5(b) only until the attorney has withdrawn in the manner provided in sections (b), (c), and (d). Nothing in this rule defines the circumstances under which a withdrawal might be denied by the court.

(b) **Withdrawal by Order.** A court appointed attorney may not withdraw without an order of the court. The client of the withdrawing attorney must be given notice of the motion to withdraw and the date and place the motion will be heard.

(c) **Withdrawal by Notice.** Except as provided in sections (b) and (d), an attorney may withdraw by notice in the manner provided in this section.

(1) *Notice of Intent To Withdraw.* The attorney shall file and serve a Notice of Intent To Withdraw on all other parties in the proceeding. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the Notice of Intent To Withdraw. The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. If notice is given before trial, the notice shall include the date set for trial. The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney, unless disclosure of the address would violate the Code of Professional Responsibility, in which case the address may be omitted. If the address is omitted, the notice must contain a statement that after the attorney withdraws, and so long as the address of the withdrawing attorney's client remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the clerk of the court pursuant to rule 5(b)(1).

(2) *Service on Client.* Prior to service on other parties, the Notice of Intent To Withdraw shall be served on the persons represented by the withdrawing attorney or sent to them by certified mail, postage prepaid, to their last known mailing addresses. Proof of service or mailing shall be filed, except that the address of the withdrawing attorney's client may be omitted under circumstances defined by subsection (c)(1) of this rule.

(3) *Withdrawal Without Objection.* The withdrawal shall be effective, without order of court and without the service and filing of any additional papers, on the date designated in the Notice of Intent To Withdraw, unless

a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the day of withdrawal in the Notice of Intent To Withdraw.

(4) *Effect of Objection.* If a timely written objection is served, withdrawal may be obtained only by order of the court.

(d) **Withdrawal and Substitution.** Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, and signature of the withdrawing attorney and the substituted attorney.

Comment

The new rule is the same as the rule applicable in superior court. The procedure was not addressed in the old justice court rules.

9. APPEALS
(RULES 72-76)

RULE 72

APPEAL TO SUPERIOR COURT

An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ). Under RALJ 1.1, the appeal from some courts is an appeal for error on the record, and the appeal from other courts is conducted as a trial de novo. The procedures for an appeal for error on the record are defined by RALJ. The procedures for a trial de novo are defined by JCR 73 and 75 below.

Comment

The new rule clarifies the relationship between RALJ and JCR 73 and 75.

RULE 73

~~APPEAL TO A SUPERIOR COURT~~
TRIAL DE NOVO

(a) **Scope of Rule.** This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ). The proceedings to which those rules apply are defined by RALJ 1.1.

(b) **Filing Notice of Appeal Jurisdictional — Service.** When an appeal is permitted by law from a court of limited jurisdiction to a superior court such appeal shall be taken by filing in the court of limited jurisdiction a notice of appeal within 14 days after the judgment is rendered or decision made. Filing the notice of appeal is the only jurisdictional requirement for an appeal. A party filing a notice of appeal shall also, within the same 14 days, serve a copy of the notice of appeal on all other parties or their lawyers and file an acknowledgment or affidavit of service in the court of limited jurisdiction.

(c) **Bond.** A bond or undertaking shall be executed on the part of the appellant, except when the appellant is a county, city, town or school district, and filed with and approved by the court of limited jurisdiction with one or

more sureties, in the sum of \$100, conditioned that the appellant will pay all costs that may be awarded against him on appeal; or if a stay of proceedings in the court of limited jurisdiction be claimed, except by a county, city, town or school district, a bond or undertaking, with two or more personal sureties, or a surety company as surety, to be approved by the court of limited jurisdiction, in a sum equal to twice the amount of the judgment and costs, conditioned that the appellant will pay such judgment, including costs, as may be rendered against him on appeal, be so executed and filed.

(d) **Stay of Proceedings.** Upon an appeal being taken and a bond filed to stay all proceedings, the court of limited jurisdiction shall allow the same and make an entry of such allowance, and all further proceedings on the judgment in such court shall thereupon be suspended; and if in the meantime execution shall have been issued, such court shall give the appellant a certificate that such appeal has been allowed.

(e) **Release of Property Taken on Execution.** On such certificate being presented to the officer holding the execution, he shall forthwith release the property of the judgment debtor that may have been taken on execution.

(f) **No Dismissal for Defective Bond.** No appeal allowed by a court of limited jurisdiction shall be dismissed on account of any defect in the bond on appeal, if the appellant, before the motion is determined, shall execute and file in the superior court such bond as he should have executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect.

(g) **Judgment Against Appellant and Sureties.** In all cases of appeal to the superior court, if on the trial anew in such court, the judgment be against the appellant in whole or in part, such judgment shall be rendered against him and his sureties on the bond on appeal.

Comment

The new rule is the same as the old rule. The title is changed to make it clear that the rule applies only to a trial de novo.

RULE 74

[RESERVED]

RULE 75

~~RECORD ON APPEAL TO A SUPERIOR COURT~~
TRIAL DE NOVO

(a) **Scope of Rule.** This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ). The proceedings to which those rules apply are defined by RALJ 1.1.

(b) **Transcript; Procedure in Superior Court; Pleadings in Superior Court.** Within 14 days after the notice of appeal has been filed in a civil action or proceeding, the appellant shall file with the clerk of the superior court a transcript of all entries made in the docket of the court of limited jurisdiction relating to the case, together with all the process and other papers relating to the case filed in the court of limited jurisdiction which shall be made

and certified by such court to be correct upon the payment of the fees allowed by law therefor, and upon the filing of such transcript the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as provided in these rules. The issue before the court of limited jurisdiction shall be tried in the superior court without other or new pleadings, unless otherwise directed by the superior court.

(c) **Transcript; Procedure on Failure To Make and Certify; Amendment.** If upon an appeal being taken the court of limited jurisdiction fails, neglects or refuses, upon the tender or payment of the fees allowed by law, to make and certify the transcript, the appellant may make application, supported by affidavit, to the superior court and the court shall issue an order directing the court of limited jurisdiction to make and certify such transcript upon the payment of such fees. Whenever it appears to the satisfaction of the superior court that the return of the court of limited jurisdiction to such order is substantially erroneous or defective it may order the court of limited jurisdiction to amend the same. If the judge of the court of limited jurisdiction fails, neglects or refuses to comply with any order issued under the provisions of this section he may be cited and punished for contempt of court.

Comment

The new rule is the same as the old rule. The title is changed to make it clear that the rule applies only to a trial de novo.

RULE 76

[RESERVED]

**10. COURT AND CLERKS
(RULES 77-80)**

RULE 77

[RESERVED]

RULE 77.04

ADMINISTRATION OF OATH

The oaths or affirmations of all witnesses

- (1) Shall be administered by the judge;
- (2) Shall be administered to each witness on coming to the stand, not to a group and in advance; and
- (3) The witness shall stand while the oath or affirmation is pronounced.

RULES 78-80

[RESERVED]

**11. GENERAL PROVISIONS
(RULES 81-86)**

RULE 81

APPLICABILITY IN GENERAL

(a) **To What Proceedings Applicable.** These rules govern all civil proceedings except as provided in this rule. These rules do not apply where inconsistent with rules or statutes applicable to special proceedings, nor do they apply to proceedings in small claims court. In a court in which the proceedings are not recorded and review is by trial de novo, these rules apply to the extent practicable; in these courts, rules referring to recording or an appeal on the record should be disregarded.

(b) **Conflicting Statutes and Rules.** Subject to the provisions of section (a) of this rule, these rules supersede all procedural statutes and other rules that may be in conflict.

Comment

Section (a) is an adaptation of the rule applicable in superior court. The definition of "special proceeding" has never been very clear, but the cases construing the superior court rule should be pertinent. Section (b) is the same as the rule applicable in superior court.

RULE 82

JURISDICTION AND VENUE—UNAFFECTED

These rules shall not be construed to extend or limit the jurisdiction of the courts of limited jurisdiction or the venue of actions therein. ~~Jurisdiction and venue shall be governed by RCW 3.20.100, 3.20.110, 3.34.110, 3.50.280, 3.66.040, and 3.66.050.~~

Comment

The new rule is substantially the same as the old rule. It defers to statutes governing jurisdiction and venue in courts of limited jurisdiction. Jurisdiction and venue are governed by RCW 3.20.100, 3.20.110, 3.34.110, 3.50.280, 3.66.040, and 3.66.050. As to a default judgment entered in a district of improper venue, see rule 55.

RULE 83

LOCAL RULES

(a) **Adoption.** Each court of limited jurisdiction by action of a majority of the judges may from time to time make and amend local rules governing its practice not inconsistent with these rules.

(b) **Filing With the Administrator for the Courts.** Local rules and amendments become effective only after they are filed with the state Administrator for the Courts in accordance with GR 7.

Comment

The rule is the same as the rule applicable in superior court except that the reference to "superior court" is changed to "court of limited jurisdiction."

RULE 84

[RESERVED]

RULE 85**TITLE**

These rules may be known and cited as Justice Court Civil Rules and they may be referred to as JCR.

Comment

The new rule is the same as the old rule.

RULE 86**EFFECTIVE DATE**

These rules take effect on the dates specified by the Supreme Court and thereafter all procedural laws in conflict therewith shall be of no further force and effect. They govern all proceedings in actions after they take effect, and also all further proceedings in actions pending on their effective dates, except to the extent that in the opinion of the court, expressed by its order, the application of rules in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the procedure existing at the time the action was brought applies.

Comment

The new rule is the same as the old rule.

12. MISCELLANEOUS PROCEEDINGS RULES
(RULES 86.04–99.04)

RULES 86.04–99.04**[RESERVED]****JUSTICE COURT CRIMINAL RULES (JCrR)***Table of Contents*

Rule 3.08 Time for Trial

RULE 3.08**TIME FOR TRIAL**

(a) **Responsibility of Court.** It shall be the responsibility of the court to ensure a trial in accordance with this rule to each person charged with having committed a crime.

(b) **Precedence Over Civil Cases.** Criminal trials shall take precedence over civil trials.

(c) **Time for Arraignment and Trial.**

(1) *Cases Filed in Court.* If the defendant is detained in jail or subject to conditions of release, the defendant shall be arraigned not later than 15 days after the date the complaint is filed in court. If the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after that appearance in court which next follows the filing of the complaint or citation. A defendant not released from jail pending trial shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release pending trial shall be brought to trial not later than 90 days after the date of arraignment.

(2) Reserved.

(3) *Cases Filed Initially in Juvenile Court.* If a complaint or citation is filed with the court after a juvenile court has declined jurisdiction, and if at the time the complaint or citation is filed the defendant is detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after the date the complaint or citation is filed. If a complaint or citation is filed with the court after a juvenile court has declined jurisdiction, and if at the time the complaint or citation is filed the defendant is not detained in jail or subjected to conditions of release, the defendant shall be arraigned not later than 15 days after the appearance in court which next follows the filing of the complaint or citation. A defendant not released from jail pending trial in court shall be brought to trial not later than 60 days after the date of arraignment. A defendant released from jail whether or not subjected to conditions of release shall be brought to trial not later than 90 days after the date of arraignment.

(4) *Untimely Arraignment.* If a defendant is not arraigned within the time limits of this rule and an objection to the date of arraignment has been made as required by section (e) of this rule, the time for trial established in this section shall commence on the last day the defendant could properly have been arraigned.

(5) *Rearraignment.* If a defendant is required to be rearraigned on a charge that arises out of the same occurrence and has the same elements of proof as those upon which the defendant was previously arraigned, the time for trial established in this section shall commence on the date of the previous arraignment.

(6) *Arraignment Defined.* As used in rule 3.08, "arraignment" shall be defined as in JCrR Title 3.

(d) **Extensions of Time for Trial.** The following extensions of time limits apply notwithstanding the provisions of section (c):

(1) *Revocation of Release.* A defendant who has been released from jail pending trial, pursuant to an order imposing conditions of release, but whose release is then revoked by order of the court, shall be brought to trial within such a time period that the defendant spends no more than a total of 60 days in jail following the date of arraignment, and in any event within such a time period that the defendant is tried not later than a total of 90 days after the date of arraignment unless the time period is otherwise extended by this rule.

(2) *Failure To Appear.* When a defendant who has already been arraigned fails to appear for any trial or pretrial proceeding at which the defendant's presence is required, the defendant shall be brought to trial not later than 60 days after the date upon which the defendant is present in the county where the criminal charge is pending and the defendant's presence has been made known to the court on the record, if the defendant is thereafter detained in jail or not later than 90 days after such date if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(3) *Mistrial and New Trial.* If before verdict the court orders a mistrial, the defendant shall be brought to trial not later than 60 days after the oral or written order of

the court, whichever first occurs, if the defendant is thereafter detained in jail or not later than 90 days after the order if the defendant is not detained in jail and whether or not the defendant is subjected to conditions of release. If after verdict the court orders a new trial, the defendant shall be brought to trial not later than 60 days after entry of the oral or written order of the court if the defendant is thereafter detained in jail, or not later than 90 days after entry of such order if the defendant is not detained in jail whether or not the defendant is thereafter subjected to conditions of release.

(4) *Retrial After Appellate Reversal.* If an appellate court orders a new trial, the defendant shall be brought to trial not later than 60 days after that appearance in court which next follows receipt by the clerk of the court of the mandate or other written order, if after such appearance the defendant is detained in jail, or not later than 90 days after such appearance if the defendant is thereafter released whether or not subject to conditions of release.

(5) *Change of Venue.* If a change of venue has been granted, the case shall be transferred to the receiving court as soon as practicable but within 7 days and the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the date upon which the court to which the case is being transferred for trial receives the filing of the case, whichever is later. If, however, after a change of venue is attempted, the criminal calendar of the receiving county will prevent compliance with the time limits within this section, the trial shall commence on the earliest available date permitted.

(6) *Disqualification.* If the prosecuting attorney or judge becomes disqualified from participating in the case, the defendant shall be brought to trial as prescribed by this rule or not later than 30 days following the disqualification, whichever is later.

(7) *Withdrawal of Guilty Plea.* If a defendant has been permitted to withdraw a plea of guilty, the defendant shall be brought to trial not later than 60 days after the date of the written order allowing withdrawal of the guilty plea if the defendant is thereafter detained in jail or not later than 90 days if the defendant is thereafter released from jail, whether or not subjected to conditions of release.

(8) *Five-Day Extensions.* When a trial is not begun on the date set because of unavoidable or unforeseen circumstances beyond the control of the court or the parties, the court, even if the time for trial has expired, may extend the time within which trial must be held for no more than 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension. If the nature of the unforeseen or unavoidable circumstance continues, the court may extend the time for trial in increments of not to exceed 5 days exclusive of Saturdays, Sundays, or holidays unless the defendant will be substantially prejudiced in his or her defense. The court must state on the record or in writing the reasons for the extension.

(e) **Objection to Arraignment Date—Waiver of Objection.** A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment pursuant to section (c) of this rule, and the time for trial set out in section (c) shall be deemed to have commenced on that date. Failure of a party to object as required shall be a waiver of the objection, and the date of arraignment shall be conclusively established as the date upon which the defendant was actually arraigned.

(f) **Setting of Trial Date—Notice to Parties—Objection to Trial Date—Waiver.**

(1) The court shall, within 15 days of the defendant's actual arraignment in court, set a date for trial which is within the time limits prescribed by this rule, and notify counsel for each party of the date set. If a party is not represented by counsel, the notice shall be given to the party, and may be mailed to the party's last known address. The notice shall set forth the proper date of the defendant's arraignment as established at the time of arraignment, and the date set for trial. A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those time limits. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such date, or on an extension of such date properly granted pursuant to this rule, is not within the time limits prescribed by this rule.

(2) When the court determines that the trial date should be reset for any reason, including but not limited to the applicability of a period of extension pursuant to section (d) or a period of exclusion pursuant to section (g), the court shall set a new date for trial which is within the time limits prescribed and notify each counsel or party of the date set as provided in subsection (f)(1). A party who objects to the date set on the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial date within those time limits. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such a date, or on any extension of such date granted pursuant to subsection (d)(8), is not within the time limits prescribed by this rule.

(g) **Excluded Periods.** The following periods shall be excluded in computing the time for arraignment and the time for trial:

(1) All proceedings relating to the competency of a defendant to stand trial, terminating when the court enters an order finding the defendant to be competent;

(2) Preliminary proceedings and trial on another charge except as otherwise provided by rule 3.08(c)(5);

(3) Delay granted by the court pursuant to section (h).

(4) The time between the dismissal of a charge and the defendant's arraignment or re-arraignment in court following the re-filing of the same charge;

(5) Delay resulting from a stay granted by an appellate court;

(6) The time during which a defendant is detained in jail or prison outside the county in which the defendant is charged or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington;

(7) All proceedings in juvenile court.

(h) Continuances. Continuances or other delays may be granted as follows:

(1) Upon written agreement of the parties which must be signed by the defendant or all defendants. The agreement shall be effective when approved by the court on the record or in writing.

(2) On motion of the State, the court or a party, the court may continue the case when required in the administration of justice and the defendant will not be substantially prejudiced in the presentation of his or her defense. The motion must be filed on or before the date set for trial or the last day of any continuance or extension granted pursuant to this rule. The court must state on the record or in writing the reasons for the continuance.

(i) Dismissal With Prejudice. A criminal charge not brought to trial within the time period provided by this rule shall be dismissed with prejudice.

JUDICIAL QUALIFICATIONS COMMISSION RULES

Revised and Adopted September 1, 1984

PREFACE

Pursuant to Article IV, Section 31 of the Washington State Constitution

"The commission shall establish rules of procedure for commission proceedings including due process and confidentiality of proceedings."

and RCW 2.64.110

"The commission shall establish rules for the confidentiality of its proceedings with due regard for the privacy interests of judges or justices who are the subject of an inquiry and the protection of persons who file complaints with the commission."

the Judicial Qualifications Commission has hereby revised rules adopted October 14, 1981 and adopts the following revised rules effective September 1, 1984.

JUDICIAL QUALIFICATIONS COMMISSION RULES

Revised and Adopted September 1, 1984

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Rule 1. SCOPE AND TITLE

(a) **Scope.** These rules apply to proceedings before the Judicial Qualifications Commission created by Article IV, Section 31, of the Constitution of the State of Washington, and governed by chapter 2.64 RCW. These rules govern the procedure for considering allegations that a judge has violated a rule of judicial conduct, or has a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties.

(b) **Title.** These rules shall be known as the Judicial Qualifications Commission Rules and may be abbreviated as JQCR.

(c) **Supreme Court Rules.** Supreme Court consideration of Judicial Qualifications Commission recommendations is governed by the Discipline Rules for Judges (DRJ) adopted by the Supreme Court.

Rule 2. DEFINITIONS

In these rules,

(a) "Admonishment," when issued by the commission, means a written informal disposition of an allegation consented to by the judge which cautions the judge not to engage in certain proscribed behavior and may contain agreed corrective action to be taken by the judge.

(b) "Allegation" means a statement or communication alleging facts which may upon investigation lead to a finding of judicial misconduct or disability.

(c) "Chairperson" includes the acting chairperson.

(d) "Commission" means the Judicial Qualifications Commission.

(e) "Complaint" means the formal charge of judicial misconduct or disability filed by the commission and forming the basis for a fact-finding hearing.

(f) "Fact-finder" means the commission, or at the discretion of the commission, a three-member subcommittee consisting of any members or alternates of the commission or a master.

(g) "Hearing" means a meeting for the purpose of taking evidence and conducted by a fact-finder.

(h) "Judge" means a judge or justice and includes justices of the supreme court, judges of the court of appeals, judges of the superior court, judges of any court organized under Titles 3, 35, or 35A RCW, and judges pro tempore. The term includes full-time and part-time judges and judges who have been or have not been admitted to the practice of law in Washington.

(i) "Master" means a person appointed by the commission to hear and take evidence with respect to charges against a judge.

(j) "Meeting" means a meeting of the commission for any purpose other than the taking of evidence for fact-finding.

(k) "Member" means a member of the commission and includes alternates acting as members.

(l) "Party" means the judge or the commission.

(m) "Reprimand," when issued by the commission, is an informal action of the commission, consented to by the judge, finding that the judge's conduct is unacceptable but does not require a formal recommendation for discipline to the Supreme Court.

Rule 3. ORGANIZATION OF THE COMMISSION

(a) **Officers.** The commission shall elect from its members a chairperson, a vice-chairperson, and secretary, each of whom shall serve a term of two years or until they cease to be members of the commission, whichever period is shorter. The vice-chairperson shall act as chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the members present may select a temporary chairperson.

(b) **Executive Director and Staff.** The commission will hire an executive director and such other personnel as necessary for the effective performance of the commission's duties and the exercise of its powers.

(c) **Meetings.**

(1) Meetings of the commission shall be held at the call of the chairperson or the written request of three members of the commission.

(2) The commission may conduct meetings by telephone conference call.

(d) **Quorum.** Four members must be present for the transaction of business by the commission. A final decision of the commission, other than a decision recommending discipline or retirement, must be supported by

a majority of the members present. A final decision recommending discipline or retirement in any form must be supported by four members of the commission.

(e) **Alternates.** The chairperson will call upon an alternate member selected by the appropriate appointing authority to serve in the place of a member whenever a member is disabled, disqualified, or unable to serve. The chairperson shall announce when an alternate member is serving in the place of a commission member.

Rule 4. CONFIDENTIALITY OF PROCEEDINGS

(a) **Generally.** Except as otherwise provided in this rule, all papers filed with the commission are confidential and all discipline or disability proceedings before the commission, a subcommittee, or a master will be conducted in executive session.

(b) **Public Inspection of Recommendation.** A commission recommendation of discipline or retirement, and the findings of fact and conclusions of law supporting the recommendation, shall be available for public inspection in the commission's office during regular business hours after the recommendation is filed with the Supreme Court. The record filed with the Supreme Court shall be made available for inspection in the commission office when the decision of the Supreme Court is final or at such earlier time as the record may be available for public inspection at the Supreme Court.

(c) **Release of Information.** The commission may, with due consideration for the interests of the judge, make a public statement regarding a pending or completed proceeding which would otherwise be confidential in the following circumstances:

(1) If public statements that charges are pending before the commission are substantially unfair to a judge.

(2) If a judge is publicly associated with violating a rule of judicial conduct or with having a disability, and the commission, after a preliminary investigation or a formal hearing, has determined there is no basis for further proceedings or for a recommendation of discipline or retirement.

(3) If the commission, after a preliminary investigation or a formal hearing, has determined to conclude the proceeding with informal, agreed disposition pursuant to JQCR 19.

(4) If a formal hearing has been ordered in a proceeding in which the subject matter is generally known to the public or in which there is broad public interest, or in which confidence in the administration of justice is threatened due to misinformation or lack of information.

(d) **Notice to Complainant.** After final commission action on an allegation or complaint, the commission will disclose to the person making an allegation that after an investigation of the charges (i) the commission has found no basis for action by the commission against the judge, (ii) the commission has determined that the matter involved legal issues over which it has no jurisdiction, and involves no misconduct or disability, (iii) the commission has taken appropriate corrective action, or (iv) the commission has filed a recommendation with the Supreme Court for the discipline or retirement of the judge. The name of the judge, in the discretion of the

commission, shall not be used in written communication to the complainant.

(e) **Judge's Request for Release of Information.** The commission may, in its discretion, release information concerning a pending or completed proceeding at the request of the judge who is the subject of the proceeding. A person who has been disciplined by commission action may disclose such fact.

(f) **Release of Information to Bar Associations, Judicial Appointive Authority or Law Enforcement Agencies.** The commission may, in its discretion, release information to the Washington State Bar Association, American Bar Association, a judicial authority, any judicial appointive, selection or confirmation authority, or to law enforcement agencies when required in the interests of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The person to whom the information relates may, in the commission's discretion, be informed of any information released.

(g) **Public Proceedings.** If the commission determines that the public interest in maintaining confidence in the judiciary and the integrity of the administration of justice so require, it may order that some or all aspects of the proceeding before the commission may be publicly conducted or otherwise reported or disclosed to the public. The judge will be given notice and an opportunity to be heard on the issue before the commission determines to make a hearing public.

(h) **Contempt.** Unless otherwise permitted by these rules, no person shall disclose information obtained by that person during commission proceedings or from papers filed with the commission. Any person giving information to the commission or any member or employee of the commission is subject to a proceeding for contempt in superior court for disclosing information in violation of this rule.

Rule 5. INITIAL PROCEEDINGS

(a) **Allegations of Misconduct or Disability.** Any organization, association, or person, including a member of the commission, may make an allegation of judicial misconduct or disability to the commission. An allegation may be made orally or in writing.

(b) **Distinguished from Appeal.** The commission will not recommend the discipline of a judge for the exercise of discretion in making findings of fact, reaching a legal conclusion, or applying the law as the judge understands it.

(c) **Screening by Executive Director.** Upon receipt of an allegation not obviously unfounded or frivolous, the executive director shall make a prompt, discreet, and confidential inquiry and evaluation. The executive director shall make a recommendation to the commission as to whether a preliminary investigation should be initiated on every allegation received.

(d) **Commission Determination.** If the commission determines at a meeting that a preliminary investigation should be initiated, the person making the allegation may be requested to file a verified statement with the commission. If a verified statement is not filed by the

person making the allegation, the executive director shall prepare and file a verified statement.

(e) **Contents of Verified Statement.** A verified statement requesting that the Commission investigate allegations must include facts showing that a judge may have violated a rule of judicial conduct or may be suffering a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

Rule 6. PRELIMINARY INVESTIGATION

(a) **Conduct of Preliminary Investigation.** If the commission orders a preliminary investigation, the executive director will supervise the investigation.

(b) **Notification of Investigation.** The judge who is the subject of a preliminary investigation will be notified by the commission within 7 days after the filing of a verified statement. The judge shall also be advised of the nature of the charge, and, in the discretion of the commission, the name of the individual making the verified statement, if any, or that the investigation is on the commission's own motion.

(c) **Judge's Response.** The judge shall be afforded a reasonable opportunity in the course of the preliminary investigation to present such matters as he or she may choose.

(d) **Order for Medical Examination.** If the preliminary investigation concerns a judge who may be suffering a possible physical and/or mental disability which may seriously impair the performance of judicial duties, the commission may order a judge to submit to physical and/or mental examinations at commission expense. The failure or refusal of a judge to submit to physical and/or mental examinations ordered by the commission may, in the discretion of the commission, preclude the judge from presenting the results of other physical and/or mental examinations on his or her own behalf. The commission may consider the failure or refusal to submit to physical and/or mental examinations as evidence that the judge has a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent.

(e) **Result of Preliminary Investigation.**

(1) If the commission determines at a meeting after a preliminary investigation that there are insufficient grounds for further commission proceedings, the judge and the person making the allegation will be so notified.

(2) If the commission determines at a meeting after a preliminary investigation that probable cause exists for believing that the judge has violated a rule of judicial conduct or that the judge may be suffering from a disability that seriously interferes with the performance of judicial duties and is or is likely to become permanent, the commission shall order the filing of a complaint pursuant to Rule 7 or may informally dispose of the matter pursuant to Rule 19.

(f) **Stipulations.** After a preliminary investigation and when prior approval is given by the commission, either the executive director or counsel retained by the commission may enter into a proposed stipulation of facts

and/or discipline with the respondent judge. Such a stipulation may contain the imposition of terms and conditions and such other provisions as may appear appropriate. If a stipulation is not adopted by the commission, it shall be of no force and effect.

Rule 7. INITIATING FORMAL PROCEEDINGS

(a) **Generally.** The commission after a preliminary investigation may file a complaint alleging the violation of a rule of judicial conduct or the disability of a judge that is or is likely to become permanent. The complaint will be served on the judge within 7 days after filing of the complaint in the commission's office.

(b) **Decision to File Complaint.** When a complaint is filed, no further factual information shall be provided to the commission prior to a fact-finding hearing unless notice is given to both parties. The executive director will continue to assist commission counsel.

(c) **Form of complaint.** The complaint will state in ordinary and concise language the basis for commission action and the facts supporting the complaint. The complaint shall also inform the judge that he or she may file a written answer to the charges as provided in paragraph (d).

(d) **Answer.** The judge may file with the commission an answer to the complaint. The answer must be filed within 14 days after service of the complaint on the judge. If the judge does not file a written answer, a general denial will be entered on behalf of the judge. The complaint and the answer shall be the only pleadings required.

Rule 8. SCHEDULING FACT-FINDING HEARING

A fact-finding hearing will be scheduled to take place within 42 days after the time for answer has expired or after the answer is filed. The executive director will set a time and place for the fact-finding hearing. The judge will be given at least 14 days notice of the fact-finding hearing. The notice will include the name or names of the fact-finder and the presiding officer, if any.

Rule 9. DISQUALIFICATION OF FACT-FINDER

(a) **Disqualification of Member or Master.** A member of the commission or a master must disqualify himself or herself in any proceedings involving his or her own conduct or alleged disability. A member of the commission or a master must disqualify himself or herself if he or she cannot impartially consider the complaint against a judge.

(b) **Challenge for Cause.** A judge may file an affidavit challenging for cause any member or a master who the judge believes will not impartially consider the complaint. The affidavit must be filed within 7 days after notice of the fact-finding hearing. The commission will decide any challenge for cause if the member does not disqualify himself or herself.

(c) **Peremptory Challenge.** A judge may file one peremptory challenge against one member of the commission. The challenge must be filed within 7 days after

notice of a fact-finding hearing. If the judge has unsuccessfully challenged a member for cause, any peremptory challenge against that member must be filed within 3 days after service of notice of the determination of the challenge for cause.

Rule 10. PROCEDURAL RIGHTS OF JUDGE

(a) **Generally.** The judge has a right to notice of the allegations concerning the judge which have been found by the commission to warrant a preliminary investigation. The judge shall have the right and reasonable opportunity at a fact-finding hearing to defend against the allegations in the complaint by the introduction of evidence. The judge has the privilege against self-incrimination. The judge may be represented by counsel and may examine and cross-examine witnesses. The judge has the right to testify or not to testify on his or her own behalf. The judge has the right to issuance of subpoenas for the attendance of witnesses to testify or produce evidentiary matters. The judge has the right to a prompt resolution of the allegations in the complaint.

(b) **Compliance with Ethics Advisory Opinion.** A judge's compliance with an opinion by the Ethics Advisory Committee shall be considered by the commission as evidence of good faith.

(c) **Transcripts.** The judge will be provided without cost a copy of any report of proceedings prepared by the commission. The judge may, in addition, have all or any portion of the testimony in the proceedings transcribed at his or her own expense.

(d) **Witness Fees.** All witnesses shall receive fees and expenses in the amount allowed by law. Expenses of witnesses shall be borne by the party calling them, unless the commission determines that the imposition of costs and expert witness fees would work a financial hardship or injustice upon the judge and orders that those fees be reimbursed.

Rule 11. GUARDIANS AD LITEM

If it appears to the commission at any time during the proceedings that the judge is not competent to act, or if it has been previously judicially determined that the judge is not competent to act, the commission will appoint a guardian ad litem for the judge unless the judge already has a guardian who will represent the judge's interests. In the appointment of a guardian ad litem, consideration may be given to the wishes of the members of the judge's immediate family. The guardian or guardian ad litem may claim and exercise any right and privilege and make any defense for the judge which the judge could have claimed, exercised, or made if competent. Any notice to be served on the judge will also be served on the guardian or guardian ad litem.

Rule 12. DISCOVERY PROCEDURE BEFORE FACT-FINDING

(a) **Request for Witnesses and Documents.** Upon written demand, the opposing party will disclose within 7 days thereof, with a continuing obligation thereafter, the following:

(1) names and addresses of all witnesses whose testimony that party expects to offer at the hearing,

(2) a brief summary of the expected testimony of each witness,

(3) copies of signed or recorded statements of anticipated witnesses, and,

(4) copies of documents which may be offered. Witnesses or documents not disclosed may be excluded.

(b) **Discovery.** The taking of depositions, the requesting of admissions and all other procedures authorized by Rules 26 through 37 of the Superior Court Civil Rules are available upon stipulation of the parties or upon prior permission of the master or presiding officer. A request for discovery shall be granted, unless the master or presiding officer determines that the request is frivolous, will create an undue burden on the party, or will result in undue delay.

(c) **Disclosure by Commission's Counsel.** The commission's counsel shall disclose to the judge any material or information within his or her knowledge which tends to negate the allegations against the judge or mitigate the degree of discipline which may be imposed.

(d) **Prehearing Motions.** The judge or counsel for either party may make prehearing motions to the designated presiding officer, who may make rulings or defer rulings to the commission.

Rule 13. AMENDMENTS TO COMPLAINT OR ANSWER

The fact-finder, at any time prior to the conclusion of the hearing, or the commission, at any time prior to its decision, may allow or require amendments to the complaint or the answer. The complaint may be amended to conform to the proof or set forth additional facts, whether occurring before or after the commencement of the hearing. Except for amendments to conform to the proof at a fact-finding hearing, if an amendment substantially affects the nature of the charges, the judge will be given reasonable time to answer the amendment and prepare and present a defense against the new matter raised.

Rule 14. PROCEDURE AT FACT-FINDING HEARING

(a) **Order of Presentation.** The order of presentation shall be in the same manner as in civil cases in superior court.

(b) **Commission Represented by Counsel.** The case for the commission shall be presented by counsel retained by the commission.

(c) **Rules of Evidence.** The Rules of Evidence (ER) as applicable in civil proceedings shall govern the fact-finding hearing.

(d) **Standard of Proof.** Any finding that the judge has violated a rule of judicial conduct or that the judge has a disability which is or is likely to become permanent and which seriously interferes with the performance of judicial duties must be supported by clear, cogent and convincing evidence.

(e) **Presiding Officer.** Unless the fact-finding hearing is before a master, the chairperson may appoint a member to be presiding officer or to rule on motions and objections made during the hearing. If the hearing is before the commission, a member may appeal a ruling to the commission members present. A majority vote will determine the motion.

(f) **Failure to Answer or Appear.** The failure of a judge to answer or to appear at the hearing or to submit to a mental or physical examination required by the commission will not prevent the commission from proceeding.

(g) **Verbatim Record.** Unless the judge and the commission stipulate to a different record, a verbatim record will be made and kept of the fact-finding hearing. The commission shall determine whether the verbatim record will be by court reporter or electronic recording device.

Rule 15. REPORT OF FACT-FINDER

(a) **When Fact-Finder Other Than Commission.** The fact-finder, when other than the entire commission, shall prepare a report containing a brief statement of the procedure followed and the proposed findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The report and verbatim record shall be filed in the commission office within 35 days after the hearing. The report and record shall be served on the parties within 14 days thereafter. The fact-finder may request the prevailing party to prepare the findings of fact and conclusions of law.

(b) **Objections.** A party may file with the commission a statement of objections to the report of the fact-finder. The statement shall set forth all objections to the report and state reasons therefor. The objections must be filed with the commission and served on the opposing party within 14 days after service of the report on the party.

(c) **No Objections Filed.** If no statement of objections to the report of the fact-finder is filed within the time provided in paragraph (b), the report may be adopted without argument.

(d) **Objections Filed.** If a statement of objections is timely filed, the commission may schedule oral argument, or consider the matter on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

(e) **Commission Modification.** If the commission proposes to modify or reject the fact-finder's report, the commission shall schedule a time for oral argument on the record along with briefs of the parties. The parties shall be given at least 14 days written notice of the time and place for argument.

Rule 16. COMMISSION DECISION

(a) **Commission Sitting as Fact-Finder.** When the commission serves as fact-finder, it will file a decision including findings of fact, conclusions of law, and a recommendation with respect to the issues presented at the fact-finding hearing. The prevailing party may be requested to prepare the findings of fact and conclusions of

law. The commission's decision will be served upon the judge pursuant to JQCR 16(c). Any motions for reconsideration or objections shall be timely filed in accordance with JQCR 16(d).

(b) **Decision.** Only upon the affirmative vote of at least four members will the commission recommend discipline or retirement of a judge or effect an informal disposition pursuant to JQCR 19. The commission's decision will include written findings of fact, conclusions of law, a recommendation and any record to be filed with the Supreme Court. The commission may adopt the report of the fact-finder, in whole or in part, by reference. To vote on a matter, a nonsitting member must consider the verbatim record and any report of a fact-finder. Any commission member may file a dissent.

(c) **Notice to Judge.** The commission's decision will be served upon the judge and his or her counsel of record within 14 days after the decision is filed in the commission's office.

(d) **Motion for Reconsideration and Objections to Record.** A party may file objections to the record or a motion for reconsideration of the commission decision within 14 days after the decision and record have been served. Objections will be determined by the chairperson or, in his or her discretion, by the commission.

(e) **Finality of Decision.** The commission decision is final 14 days after service unless a motion for reconsideration or objection is earlier filed. If a motion for reconsideration or objection is denied, the decision is then final. If either the motion for reconsideration or objection is granted, the reconsidered decision is final when filed in the commission's office.

(f) **Notice of Commission Decision.** When the decision is final, the commission will notify the person making the allegation of the general nature of its decision, in accordance with Rule 4(d).

Rule 17. ADDITIONAL EVIDENCE

The commission may order a hearing for the taking of additional evidence at any time before its decision is final. The order will set the time and place of the hearing and will specify the matters on which the additional evidence is to be taken. A copy of the order shall be served upon the judge at least 14 days prior to the date set for hearing. The hearing will be conducted in the manner provided in Rules 8-16.

Rule 18. SUPREME COURT PROCEDURES

(a) **Certification to Supreme Court.** Within 14 days after the decision is final, a commission decision recommending the discipline or retirement of a judge will be filed in the Supreme Court and served on the judge. The notice of the decision served on the judge shall state the date the decision was filed in the Supreme Court and shall specify the period during which the judge may challenge the commission recommendation as provided in DRJ 2.

(b) **Record for Supreme Court Review.** The chairperson shall certify the record of commission proceedings to the Supreme Court, having transmitted to the judge those portions of the record required by DRJ 4.

(c) **Remand from the Supreme Court.** If the Supreme Court remands a case to the commission, the chairperson shall assign the case to a fact-finder or the commission in accordance with the request of the Supreme Court.

Rule 19. INFORMAL DISPOSITION

An allegation of misconduct may be disposed of by a proposal to the judge for an admonishment or reprimand. The proposal will provide whether acceptance of the proposal may be considered as an admission of misconduct by the judge and whether it may be made public. If the judge accepts the proposal in writing within 14 days after service of the proposal, a letter of admonishment or reprimand will be issued and no further action will be taken by the commission. If the judge accepts the proposal, the person making the allegation shall be notified that the matter has been resolved, in accordance with Rule 4(d). If the judge does not accept or fails to respond to the proposal, proceedings will continue.

Rule 20. REINSTATEMENT OF ELIGIBILITY

A former judge whose eligibility for judicial office had been removed by the Supreme Court may file with the commission a petition for reinstatement of eligibility. Rules 4, 8 through 18 and 20 through 22 apply to commission review of a petition for reinstatement for eligibility. The commission will recommend to the Supreme Court in writing that the former judge should or should not be reinstated to eligibility to hold judicial office as provided in DRJ 11.

Rule 21. EXTENSION OF TIME

Upon a showing of good cause the chairperson or fact-finder may extend the time within which an act must be done under these rules.

Rule 22. SERVICE

(a) **Service on Judge.** A complaint under Rule 7 shall be served on a judge in person, unless the judge cannot be found within the state. If the judge cannot be found, the complaint may be served by mail addressed to the judge's last known business and residence addresses. All other papers in commission proceedings may be served on a judge in person or by mail. If counsel has appeared for a judge, papers, other than a complaint, may be served on counsel in lieu of service upon the judge.

(b) **Service on Commission.** Service of papers on the commission shall be given by delivering or mailing the papers to the commission's office.

(c) **When Service Accomplished.** If service is by mail, a paper is timely served if mailed within the time permitted for service. If a paper is served by mail, a time period dependent on the service begins to run 3 days after the paper is mailed.

Rule 23. RULE ADOPTION, AMENDMENT, OR REPEAL

(a) **Generally.** The commission may adopt, amend, or repeal a rule or any person may request such action by petition.

(b) **Petition.** The petition must set out the proposed rule, or amendments to an existing rule, in full. The petition must also include reasons in support of the request.

(c) **Commission Review.** The executive director shall recommend to the commission whether to adopt, amend, or repeal a rule as requested in a petition. The chairperson may order a public hearing for further consideration of the petition. The commission will order the publication of any proposed rule modifications for public comment before taking final action to adopt, amend, or repeal a rule.

(d) **Notice to Petitioner.** The commission will notify the petitioner of its final action within a reasonable time after disposition of the petition.

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Codification Tables: 1984 Regular Session Laws—RCW

1984 REGULAR SESSION LAWS

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
1	1	35.21.417	51	46.39.020	121	47.12.080	191	47.36.053	261	47.56.190				
	2	35.21.418	52	46.44.020	122	47.12.160	192	47.36.060	262	47.56.200				
	3	Em.	53	46.44.037	123	47.12.180	193	47.36.070	263	47.56.210				
2	1	Approp.	54	46.44.049	124	47.12.240	194	47.36.080	264	47.56.230				
	2	Approp.	55	46.44.093	125	47.12.244	195	47.36.090	265	47.56.240				
	3	Approp.	56	46.44.096	126	47.12.246	196	47.36.095	266	47.56.242				
	4	Approp.	57	46.44.098	127	47.12.248	197	47.36.097	267	47.56.245				
	5	Approp.	58	46.44.105	128	47.12.250	198	47.36.100	268	47.56.247				
	6	Approp.	59	46.44.110	129	47.12.270	199	47.36.110	269	47.56.248				
	7	Sev.	60	46.44.140	130	47.12.320	200	47.36.120	270	47.56.253				
	8	Em.	61	46.44.173	131	47.17.155	201	47.36.180	271	47.56.255				
3	1	Temporary	62	46.61.085	132	47.17.350	202	47.36.200	272	47.56.256				
	2	80.04.130	63	46.61.130	133	47.17.375	203	47.36.250	273	47.56.284				
	3	Em.	64	46.61.135	134	47.17.417	204	47.38.010	274	47.56.286				
4	1	48.44.212	65	46.61.165	135	47.17.455	205	47.38.020	275	47.56.287				
	2	48.46.250	66	46.61.195	136	47.17.640	206	47.38.040	276	47.56.345				
	3	Em.	67	46.61.200	137	47.17.730	207	47.39.030	277	47.56.366				
5	1	41.32.010	68	46.61.290	138	47.17.750	208	47.39.040	278	47.56.380				
6	1	48.27.010	69	46.61.345	139	47.17.850	209	47.39.060	279	47.56.390				
	2	48.30.260	70	46.61.380	140	47.20.570	210	47.40.020	280	47.56.400				
7	1	8.26.040	71	46.61.428	141	47.20.580	211	47.40.030	281	47.56.490				
	2	8.26.050	72	46.61.560	142	47.20.590	212	47.40.050	282	47.56.702				
	3	8.26.110	73	46.68.100	143	47.20.600	213	47.40.060	283	47.56.703				
	4	14.08.090	74	46.68.150	144	47.20.605	214	47.40.070	284	47.56.704				
	5	14.08.120	75	47.01.141	145	47.20.610	215	47.40.090	285	47.56.720				
	6	14.08.160	76	47.01.145	146	47.20.630	216	47.41.020	286	47.56.725				
	7	14.08.200	77	47.01.170	147	47.20.635	217	47.41.030	287	47.56.730				
	8	14.16.010	78	47.01.180	148	47.20.640	218	47.41.040	288	47.58.010				
	9	14.20.010	79	47.01.190	149	47.20.645	219	47.41.050	289	47.58.020				
	10	14.20.020	80	47.01.210	150	47.24.020	220	47.41.070	290	47.58.030				
	11	14.20.030	81	47.01.220	151	47.24.030	221	47.41.080	291	47.58.040				
	12	14.20.040	82	47.01.240	152	47.24.050	222	47.42.020	292	47.58.050				
	13	14.20.050	83	47.02.010	153	47.26.040	223	47.42.046	293	47.58.060				
	14	14.20.060	84	47.02.080	154	47.26.070	224	47.42.047	294	47.58.080				
	15	14.20.070	85	47.04.020	155	47.26.160	225	47.42.055	295	47.58.090				
	16	14.20.090	86	47.04.060	156	47.26.170	226	47.42.060	296	47.60.010				
	17	14.20.100	87	47.04.070	157	47.26.185	227	47.42.080	297	47.60.015				
	18	17.04.180	88	47.04.080	158	47.26.230	228	47.42.090	298	47.60.020				
	19	35.21.260	89	47.04.081	159	47.26.290	229	47.42.103	299	47.60.030				
	20	35.21.270	90	47.04.100	160	47.26.310	230	47.42.104	300	47.60.040				
	21	35.76.040	91	47.04.140	161	47.26.400	231	47.42.110	301	47.60.050				
	22	35.76.050	92	47.08.010	162	47.26.410	232	47.42.120	302	47.60.060				
	23	35.77.010	93	47.08.040	163	47.26.440	233	47.42.130	303	47.60.080				
	24	35.78.020	94	47.08.050	164	47.28.020	234	47.44.030	304	47.60.090				
	25	35.78.040	95	47.08.070	165	47.28.025	235	47.44.031	305	47.60.113				
	26	36.75.010	96	47.08.080	166	47.28.026	236	47.44.040	306	47.60.114				
	27	36.75.030	97	47.08.090	167	47.28.040	237	47.44.050	307	47.60.120				
	28	36.75.090	98	47.08.100	168	47.28.060	238	47.48.010	308	47.60.122				
	29	36.75.100	99	47.08.130	169	47.28.070	239	47.52.020	309	47.60.124				
	30	36.75.250	100	47.10.070	170	47.28.080	240	47.52.026	310	47.60.126				
	31	36.75.260	101	47.10.110	171	47.28.100	241	47.52.090	311	47.60.140				
	32	36.76.140	102	47.10.210	172	47.28.110	242	47.52.105	312	47.60.160				
	33	36.78.090	103	47.10.340	173	47.28.120	243	47.52.131	313	47.60.170				
	34	36.80.080	104	47.10.360	174	47.28.140	244	47.52.160	314	47.60.200				
	35	36.82.150	105	47.10.470	175	47.28.170	245	47.52.190	315	47.60.210				
	36	36.82.170	106	47.10.716	176	47.32.010	246	47.56.010	316	47.60.220				
	37	36.82.180	107	47.10.718	177	47.32.020	247	47.56.032	317	47.60.230				
	38	36.86.020	108	47.10.732	178	47.32.030	248	47.56.040	318	47.60.240				
	39	36.86.030	109	47.10.734	179	47.32.040	249	47.56.042	319	47.60.250				
	40	36.86.040	110	47.10.757	180	47.32.060	250	47.56.050	320	47.60.260				
	41	36.88.015	111	47.10.761	181	47.32.100	251	47.56.060	321	47.60.270				
	42	36.89.030	112	47.10.767	182	47.32.110	252	47.56.075	322	47.60.280				
	43	39.06.010	113	47.10.768	183	47.32.120	253	47.56.077	323	47.60.282				
	44	39.08.090	114	47.12.011	184	47.32.130	254	47.56.100	324	47.60.283				
	45	41.06.280	115	47.12.023	185	47.32.150	255	47.56.110	325	47.60.300				
	46	43.31.880	116	47.12.026	186	47.32.160	256	47.56.130	326	47.60.350				
	47	43.79A.020	117	47.12.029	187	47.32.170	257	47.56.150	327	47.60.370				
	48	43.80.100	118	47.12.040	188	47.36.010	258	47.56.160	328	47.60.390				
	49	46.16.061	119	47.12.050	189	47.36.040	259	47.56.170	329	47.60.410				
	50	46.37.420	120	47.12.066	190	47.36.050	260	47.56.180	330	47.60.420				

Codification Tables: 1984 Regular Session Laws—RCW

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
	331	47.60.450		19	<i>Leg. dir.</i>		5	<i>Repealer</i>		42	31.12.406		20	38.52.200	
	332	47.60.470		20	<i>Approp.</i>		6	<i>Em.</i>		43	31.12.415		21	38.52.205	
	333	47.60.500		21	<i>Sev.</i>	25	1	70.05.040		44	31.12.425		22	38.52.207	
	334	47.60.540			18.59.905		2	70.05.045		45	31.12.435		23	38.52.210	
	335	47.60.550		22	<i>Vetoed</i>		3	70.08.030		46	31.12.445		24	38.52.220	
	336	47.60.560	10	1	19.60.010		4	36.71.090		47	31.12.455		25	38.52.240	
	337	47.60.610		2	19.60.085		5	70.05.050		48	31.12.465		26	38.52.250	
	338	47.61.010		3	19.60.020		6	70.05.060		49	31.12.475		27	38.52.260	
	339	47.61.090		4	19.60.014		7	70.05.070		50	31.12.485		28	38.52.270	
	340	47.64.060		5	19.60.045		8	70.05.120		51	31.12.495		29	38.52.280	
	341	47.64.080		6	19.60.040		9	70.05.132		52	31.12.506		30	38.52.290	
	342	47.68.020		7	19.60.055	26	1	36.62.010		53	31.12.516		31	38.52.300	
	343	47.68.060		8	19.60.050		2	36.62.040		54	31.12.526		32	38.52.310	
	344	47.68.070		9	19.60.060		3	36.62.050		55	31.12.535		33	38.52.320	
	345	47.68.080		10	19.60.061		4	36.62.060		56	31.12.545		34	38.52.330	
	346	47.68.100		11	19.60.062		5	36.62.070		57	31.12.555		35	38.52.340	
	347	47.68.120		12	19.60.066		6	36.62.090		58	31.12.565		36	38.52.350	
	348	47.68.130		13	19.60.075		7	36.62.100		59	31.12.575		37	38.52.360	
	349	47.68.150		14	<i>Repealer</i>		8	36.62.110		60	31.12.585		38	38.52.370	
	350	47.68.170		15	<i>Sev.</i>		9	36.62.120		61	31.12.595		39	38.52.380	
	351	47.68.180			19.60.900		10	36.62.130		62	31.12.605		40	38.52.390	
	352	47.68.185		16	<i>Eff. date</i>		11	36.62.140		63	31.12.615		41	38.52.400	
	353	47.68.190			19.60.901		12	36.62.150		64	31.12.625		42	38.52.410	
	354	47.68.200	11	1	36.80.010		13	36.62.160		65	31.12.635		43	38.52.900	
	355	47.68.233		2	<i>Em.</i>		14	36.62.170		66	31.12.645		44	38.52.035	
	356	47.68.280		12	1	46.61.290		15	36.62.180		67	31.12.655	39	1	46.12.101
	357	47.68.290	13	1	44.05.030		16	36.62.190		68	31.12.665		2	46.12.102	
	358	47.68.300		2	44.05.050		17	36.62.200		69	31.12.675	40	1	28A.02.250	
	359	47.68.310		3	44.05.060		18	36.62.210		70	31.12.685		2	28A.04.120	
	360	47.68.320		4	29.70.100		19	36.62.230		71	31.12.695		3	28A.31.100	
	361	47.68.340		5	<i>Sev.</i>		20	36.62.252		72	31.12.705		4	28A.31.102	
	362	47.68.350			44.05.902		21	36.62.270		73	31.12.715		5	28A.31.106	
	363	47.68.370	14	1	61.16.030		22	36.62.290		74	31.12.725		6	28A.31.108	
	364	49.46.010		15	1	54.04.050		23	<i>Repealer</i>		75	31.12.735		7	28A.31.110
	365	53.34.010	16	1	<i>Approp.</i>	27	1	29.36.010		76	31.12.902		8	28A.31.114	
	366	53.34.180		2	<i>Temporary</i>		2	29.36.035		77	<i>Applic.</i>		9	28A.31.116	
	367	58.22.020		3	<i>Temporary</i>	28	1	43.180.200		78	<i>Leg. dir.</i>		10	28A.60.350	
	368	67.32.140		4	<i>Em.</i>	29	1	<i>Repealer</i>		79	31.13.010		11	<i>Repealer</i>	
	369	68.24.180	17	1	10.98.010		2	43.19.015		80	<i>Sev.</i>		12	<i>Repealer</i>	
	370	79.24.160		2	10.98.020	30	1	<i>Repealer</i>			31.12.904		13	<i>Repealer</i>	
	371	79.72.020		3	10.98.030	31	1	<i>Repealer</i>		81	<i>Eff. date</i>		14	<i>Repealer</i>	
	372	80.50.030		4	10.98.040		2	31.12.005			31.12.905		15	<i>Repealer</i>	
	373	81.53.030		5	10.98.050		3	31.12.015			49.60.178		16	<i>Repealer</i>	
	374	81.53.060		6	10.98.060		4	31.12.025	32	1	49.60.030		17	<i>Sev.</i>	
	375	81.53.240		7	10.98.070		5	31.12.035		2	49.60.030			n28A.02.250	
	376	81.96.030		8	10.98.080		6	31.12.045	33	1	77.32.235		41	1	29.04.035
	377	85.08.400		9	10.98.090		7	31.12.055	34	1	42.17.240		42	1	82.34.010
	378	85.16.070		10	10.98.100		8	31.12.065		2	42.17.2401		2	82.34.015	
	379	86.09.529		11	10.98.110		9	31.12.075		3	42.17.241		43	1	13.50.050
	380	87.03.810		12	10.98.120		10	31.12.085		4	41.64.030		44	1	35.58.150
	381	87.03.815		13	10.98.130		11	31.12.095		5	42.17.020		45	1	66.20.010
	382	88.28.055		14	10.98.140		12	31.12.105		6	42.17.180		46	1	9.95.210
	383	88.32.250		15	10.98.150		13	31.12.115		7	42.17.370		2	<i>Em.</i>	
	384	90.22.020		16	10.98.160		14	31.12.125		8	43.52A.030		47	1	58.17.155
	385	90.28.010		17	43.43.700		15	31.12.136	35	1	29.51.020		48	1	47.01.081
	386	90.58.140		18	68.08.355		16	31.12.145	36	1	41.04.005		2	47.64.290	
	387	<i>Leg. rev.</i>		19	68.08.360		17	31.12.155	37	1	2.10.040		49	1	9A.52.010
	388	<i>Repealer</i>		20	<i>Leg. dir.</i>		18	31.12.165		2	2.10.140		50	1	<i>Intent</i>
	389	<i>Sev.</i>		21	<i>Em.</i>		19	31.12.175		3	<i>Applic.</i>			n28B.15.522	
		n47.01.141	18	1	47.60.010		20	31.12.185			n2.10.140		2	28B.15.522	
8	1	35A.05.170		2	<i>Em.</i>		21	31.12.195		4	<i>Em.</i>		3	<i>Exp. date</i>	
	2	35.10.211	19	1	66.24.185		22	31.12.206	38	1	38.52.005			n28B.15.522	
	3	<i>Em.</i>	20	1	2.56.010		23	31.12.215		2	38.52.010		4	<i>Sev.</i>	
9	1	18.59.900	21	1	12.24.100		24	31.12.225		3	<i>Par. veto</i>			n28B.15.522	
	2	18.59.010		2	<i>Applic.</i>		25	31.12.235			38.52.020		5	<i>Em.</i>	
	3	18.59.020			n12.24.100		26	31.12.246		4	38.52.030		1	46.16.390	
	4	18.59.030	22	1	48.21.220		27	31.12.255		5	38.52.040	51	2	46.61.583	
	5	18.59.040		2	48.21A.090		28	31.12.265		6	38.52.050		1	28A.05.030	
	6	18.59.050		3	48.44.320		29	31.12.275		7	38.52.070	52	2	28A.05.040	
	7	18.59.060		4	70.126.010		30	31.12.285		8	38.52.080		1	68.40.010	
	8	18.59.070		5	70.126.020		31	31.12.295		9	38.52.090	53	2	68.44.060	
	9	18.59.080		6	70.126.030		32	31.12.306		10	38.52.100		3	68.46.030	
	10	18.59.090		7	70.126.040		33	31.12.315		11	38.52.110		4	68.46.060	
	11	18.59.100		8	<i>Eff. date</i>		34	31.12.326		12	38.52.120		5	68.46.100	
	12	18.59.110			n48.21.220		35	31.12.335		13	38.52.140		6	68.46.210	
	13	18.59.120	23	1	48.09.350		36	31.12.345		14	38.52.150		7	68.08.135	
	14	18.59.130		2	48.09.360		37	31.12.355		15	38.52.160		8	68.46.055	
	15	18.59.150	24	1	35.21.209		38	31.12.365		16	38.52.170		9	<i>Em.</i>	
	16	18.59.200		2	35A.21.220		39	31.12.376		17	38.52.180		1	29.80.010	
	17	18.59.140		3	36.16.139		40	31.12.385		18	38.52.190	54	2	29.80.020	
	18	18.120.020		4	51.12.045		41	31.12.395		19	38.52.195				

Codification Tables: 1984 Regular Session Laws—RCW

Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	3	29.80.040			50.06.900		29	Repealer		4	13.34.055	114	1	9.95.028
	4	29.81.010	66	1	28B.65.040		30	Repealer		5	13.34.060		2	9.95.030
	5	29.81.011	67	1	75.44.110		31	Repealer		6	26.09.255		3	9.95.032
	6	29.81.012		2	Repealer		32	Repealer		7	Repealer		4	72.13.150
	7	29.80.090	68	1	9.47A.010		33	Repealer		8	Sev.		5	Em.
	8	Sev.		2	9.47A.020		34	Repealer		n9A.40.060		115	1	Repealer
	n29.80.010			3	9.47A.030		35	Repealer	96	1	70.98.080		2	Em.
55	1	70.74.180		4	9.47A.040	77	1	28B.30.530	97	1	26.44.010	116	1	35.21.755
	2	70.74.270	69	1	88.16.118		2	28B.30.533		2	26.44.020	117	1	Repealer
56	1	48.42.060		2	Repealer	78	1	n66.12.160		3	26.44.030	118	1	6.12.180
	2	48.42.070		3	Em.		2	69.04.240		4	26.44.040		2	6.12.270
	3	48.42.080	70	1	9.46.030		3	66.12.160		5	26.44.050	119	1	46.37.450
	4	Leg. dir.	71	1	66.24.510		4	66.12.170		6	26.44.070	120	1	27.60.020
57	1	Temporary	72	1	75.52.010		5	66.04.010		7	74.34.010		2	27.60.060
	2	Temporary		2	75.52.020		6	66.20.010		8	74.34.020	121	1	41.40.120
	3	Temporary		3	75.52.030		7	Sev.		9	74.34.030	122	1	Temporary
	4	Temporary		4	75.52.040		n66.12.160			10	74.34.040		2	Temporary
	5	Temporary		5	75.52.050		8	Em.		11	74.34.050		3	Vetoed
	6	Temporary		6	75.52.060		79	1	Approp.	12	74.34.060		4	Vetoed
	7	Temporary		7	75.52.070		2	Repealer		13	74.34.070		5	Temporary
	8	Approp.		8	75.52.080	80	1	75.28.116		14	74.34.080		6	Temporary
	9	Em.		9	Sev.		2	75.24.100		15	74.34.090		7	Vetoed
58	1	59.20.060			75.52.900		3	75.20.300		16	Eff. date		8	Temporary
	2	59.20.070		10	Leg. dir.		4	75.10.140		n74.34.030		9	Exp. date	
	3	59.20.075	73	1	65.08.060		5	75.12.132		17	Leg. dir.		10	53.08.255
	4	59.20.080		2	Repealer		6	75.25.015		18	Sev.		11	Em.
	5	59.20.130	74	1	43.08.180		7	75.25.130			74.34.900	123	1	70.95.010
	6	59.20.200	75	1	23A.04.010		8	75.25.140		1	28A.58.115		2	70.95.030
	7	59.20.240		2	23A.08.020		9	75.25.150	98	2	28A.58.120		3	Vetoed
	8	59.20.210		3	23A.08.030		10	75.25.160	99	1	46.52.120		4	70.95.165
	9	59.20.220		4	23A.08.120	81	1	40.14.200	100	1	70.44.400		5	70.95.090
	10	59.20.230		5	23A.08.130		2	40.14.205	101	1	19.27.030		6	70.95.100
	11	59.20.180		6	23A.08.135		3	40.14.210	102	1	n43.19.200		7	70.95.110
	12	59.20.250		7	23A.08.150		4	Approp.		2	43.19.200		8	70.95.185
	13	59.20.260		8	23A.08.160	82	1	43.51.045		3	43.19.1906		9	70.95.190
	14	59.20.270		9	23A.08.180		2	43.51.395	103	1	28A.58.045		10	70.95.268
	15	59.20.280		10	23A.08.190		3	43.51.047		2	56.08.090		11	Repealer
	16	59.20.290		11	23A.08.200		4	Temporary		3	57.08.016	124	1	28A.58.800
	17	59.20.160		12	23A.08.300	83	1	90.54.160		4	70.44.300		2	28A.58.802
	18	Sev.		13	23A.08.400	84	1	73.04.120		5	Em.		3	28A.58.804
	n59.20.200			14	23A.08.420	85	1	42.18.220	104	1	46.44.030		4	28A.58.806
59	1	54.52.010		15	23A.08.450	86	1	13.40.145		2	Em.		5	28A.58.808
	2	54.52.020		16	23A.08.500	87	1	43.51.200	105	1	28B.15.615		6	28A.58.809
	3	54.52.030		17	23A.12.020		2	43.51.210	106	1	29.01.043		7	Vetoed
	4	Leg. dir.		18	23A.16.020		3	Em.		2	29.01.087		8	28A.58.801
60	1	76.36.010		19	23A.16.040	88	1	70.94.0935		3	29.81A.010	125	1	43.63A.030
	2	76.36.020		20	23A.32.079		2	70.94.151		4	29.81A.020		2	43.63A.020
	3	76.36.060		21	23A.40.020	89	1	49.38.010		5	29.81A.030		3	43.63A.040
	4	76.36.070		22	23A.40.037		2	49.38.020		6	29.81A.040		4	43.63A.060
	5	76.36.090		23	23A.44.180		3	49.38.030		7	29.81A.050		5	43.63A.065
	6	76.36.110		24	23A.98.030		4	49.38.040		8	29.81A.060		6	43.63A.075
	7	76.36.160		25	43.07.210		5	49.38.050		9	29.81A.070		7	43.63A.078
	8	76.36.035		26	Repealer		6	49.38.060		10	29.81A.080		8	43.63A.095
	9	76.40.010	76	1	4.16.020		7	49.38.070		11	Leg. dir.		9	43.63A.100
	10	76.40.012		2	4.28.020		8	Sev.		12	29.27.080		10	43.63A.105
	11	76.40.013		3	4.36.200			49.38.900		13	Sev.		11	43.63A.190
	12	76.40.020		4	4.44.410		9	Leg. dir.			29.81A.901		12	43.17.010
	13	76.40.030		5	4.64.100	90	1	Temporary		14	Eff. date		13	43.17.020
	14	76.40.040		6	4.68.010		2	Temporary			29.81A.900		14	42.17.240
	15	76.40.050		7	Repealer		3	Temporary	107	1	41.05.050		15	43.97.080
	16	76.40.070		8	Repealer		4	Temporary	108	1	46.90.300		16	43.132.020
	17	76.40.080		9	Repealer		5	Approp.		2	46.90.427		17	70.39.070
	18	76.40.100		10	Repealer		6	Em.		3	46.90.463		18	80.50.030
	19	76.40.120		11	Repealer		1	Intent		4	46.90.481		19	43.131.189
	20	76.40.135		12	Repealer	91	1	36.65.010		5	46.90.900		20	43.131.190
	21	76.40.140		13	Repealer		2	36.65.020	109	1	29.39.210		21	43.63A.045
	22	76.40.145		14	Repealer		3	36.65.030	110	1	Temporary		22	Repealer
	23	Repealer		15	Repealer		4	36.65.040		2	Temporary		23	Sev.
	1	19.94.505		16	Repealer		5	36.65.050		3	Temporary			43.63A.901
61	1	46.16.275		17	10.52.040		6	36.65.060		4	Temporary		24	43.63A.902
62	1	51.16.120		18	36.26.070		7	Leg. dir.		5	Temporary		25	Eff. date
63	1	2.04.090		19	36.26.090	92	1	28A.02.061		6	Temporary			43.62A.903
64	2	2.06.060		20	Repealer	93	1	70.79.060		7	Temporary	126	1	81.72.200
	3	2.08.090		21	Repealer	94	1	n43.21A.510		8	Approp.		2	81.72.210
	4	Approp.		22	Repealer		2	43.21A.510		9	Exp. date		3	81.72.220
	5	Eff. date		23	Repealer		3	43.21A.515		10	Em.		4	Leg. dir.
	n2.04.090			24	Repealer		4	43.31.390	111	1	84.34.037	127	1	Intent
65	1	50.06.010		25	Repealer		5	Approp.		2	84.34.070			n18.51.320
	2	50.06.020		26	Repealer	95	1	9A.40.060	112	1	82.14.045		2	18.51.320
	3	50.06.030		27	Repealer		2	9A.40.070	113	1	36.79.140	128	1	36.32.180
	4	Applic.		28	Repealer		3	9A.40.080		2	Em.		2	36.22.010

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	3	36.18.110		7	<i>Temporary</i>		6	11.12.255		87	11.98.130		168	11.110.260
	4	36.18.120		8	<i>Approp.</i>		7	11.12.260		88	11.98.140		169	<i>Leg. rev.</i>
	5	4.64.010		9	<i>Em.</i>		8	11.28.240		89	11.98.150		170	18.100.080
	6	4.64.030	140	1	50.44.052		9	11.36.021		90	11.98.160		171	25.04.020
	7	26.27.160		2	50.44.050		10	11.68.090		91	11.98.170		172	25.04.150
	8	28A.65.435		3	<i>Eff. date, Applic.</i>		11	11.68.110		92	<i>Leg. rev.</i>		173	30.04.310
	9	28A.65.480			n50.44.050		12	11.92.040		93	11.98.900		174	64.28.040
	10	28A.65.485					13	11.92.140		94	<i>Leg. rev.</i>		175	68.44.030
	11	42.24.180	141	1	43.43.060		14	11.92.150		95	<i>Leg. rev.</i>		176	11.88.010
	12	<i>Repealer</i>		2	43.43.070		15	<i>Leg. rev.</i>		96	<i>Leg. rev.</i>		177	11.88.040
129	1	8.25.070		3	43.43.090		16	11.93.010		97	11.100.020		178	<i>Repealer</i>
	2	8.28.040		4	43.43.100		17	11.93.020		98	11.100.023		179	11.02.001
130	1	19.80.001		5	43.43.360		18	11.93.030		99	11.100.025		180	<i>Eff. dates</i>
	2	19.80.005		6	34.12.035		19	11.93.040		100	<i>Leg. rev.</i>			n11.02.005
	3	19.80.010		7	34.12.060		20	11.93.050		101	11.100.030		181	<i>Sev.</i>
	4	19.80.035		8	34.04.150		21	11.93.060		102	<i>Leg. rev.</i>			n11.02.005
	5	19.80.025		9	<i>Em.</i>		22	11.93.070		103	<i>Leg. rev.</i>		182	<i>Index</i>
	6	19.80.045	142	1	<i>Intent</i>		23	11.93.080		104	11.100.037	150	1	41.56.030
	7	19.80.040			n29.18.025		24	<i>Leg. rev.</i>		105	<i>Leg. rev.</i>		2	<i>Eff. date</i>
	8	19.80.065		2	29.18.025		25	11.93.912		106	<i>Leg. rev.</i>			n41.56.030
	9	19.80.075		3	29.18.030		26	11.94.010		107	11.100.050	151	1	<i>Temporary</i>
	10	<i>Repealer</i>		4	29.18.050		27	11.94.020		108	11.100.060		2	<i>Par. veto</i>
	11	<i>Sev.</i>		5	29.18.053		28	11.94.030		109	<i>Leg. rev.</i>			<i>Temporary</i>
		19.80.900		6	29.18.055		29	11.94.040		110	11.100.070		3	<i>Temporary</i>
	12	<i>Eff. date</i>		7	29.18.105		30	11.94.050		111	11.100.090		4	<i>Temporary</i>
		n19.80.001		8	29.18.057		31	11.94.060		112	11.100.120		5	<i>Temporary</i>
131	1	84.56.020	143	1	81.04.130		32	<i>Leg. rev.</i>		113	<i>Leg. rev.</i>		6	<i>Temporary</i>
	2	<i>Purpose</i>		2	81.04.150		33	11.95.010		114	11.100.140		7	<i>Temporary</i>
		n29.30.111		3	81.04.250		34	11.95.020		115	<i>Leg. rev.</i>		8	<i>Exp. date</i>
	3	29.30.111		4	81.28.040		35	11.95.030		116	11.104.010		9	<i>Approp.</i>
	4	67.38.130		5	81.28.050		36	11.95.040		117	11.104.020		10	<i>Approp.</i>
	5	84.52.069		6	81.28.180		37	<i>Leg. rev.</i>		118	11.104.030		11	<i>Em.</i>
	6	36.69.145		7	81.28.190		38	11.95.060		119	11.104.040	152	1	27.04.030
	7	36.68.480		8	81.28.200		39	11.95.070		120	11.104.050		2	27.04.045
	8	36.68.520		9	81.28.230		40	<i>Leg. rev.</i>		121	11.104.060		3	27.04.050
	9	36.68.525		10	81.34.010		41	11.96.009		122	11.104.070		4	<i>Repealer</i>
	10	<i>Repealer</i>		11	81.34.020		42	11.96.020		123	11.104.080	153	1	18.64.001
	11	84.36.500		12	81.34.030		43	<i>Leg. rev.</i>		124	11.104.090		2	18.64.005
	12	<i>Applic.</i>		13	81.34.040		44	<i>Leg. dir.</i>		125	11.104.120		3	18.64.011
		n84.56.020		14	81.34.050		45	11.96.040		126	11.104.130		4	18.64.043
132	1	84.12.230		15	81.34.060		46	11.96.050		127	<i>Leg. rev.</i>		5	18.64.044
	2	84.12.260		16	81.34.070		47	11.96.060		128	11.106.010		6	18.64.045
	3	84.16.036		17	81.34.080		48	11.96.070		129	11.106.020		7	18.64.046
	4	84.48.110		18	81.34.090		49	11.96.080		130	11.106.030		8	18.64.047
	5	84.56.270		19	81.34.100		50	<i>Leg. rev.</i>		131	11.106.040		9	18.64.050
133	1	n4.24.350		20	81.34.110		51	11.96.090		132	11.106.050		10	18.64.080
	2	4.24.350		21	42.17.310		52	<i>Leg. dir.</i>		133	11.106.060		11	18.64.140
	3	<i>Constr.</i>		22	64.04.180		53	11.96.100		134	11.106.070		12	18.64.160
		n4.24.350		23	64.04.190		54	11.96.110		135	11.106.080		13	18.64.246
	4	<i>Sev.</i>		24	<i>Leg. dir.</i>		55	11.96.120		136	11.106.090		14	18.64.255
		n4.24.350		25	<i>Sev.</i>		56	11.96.130		137	11.106.100		15	43.131.249
134	1	50.04.310			81.34.900		57	11.96.140		138	11.106.110		16	43.131.250
	2	50.04.320	144	1	<i>Intent</i>		58	<i>Leg. rev.</i>		139	<i>Leg. dir.</i>		17	69.41.010
135	1	<i>Repealer</i>			19.122.010		59	<i>Leg. rev.</i>		140	11.108.010		18	69.50.101
	2	9.46.116		2	19.122.020		60	<i>Leg. dir.</i>		141	11.108.020		19	<i>Temporary</i>
	3	<i>Eff. date</i>		3	19.122.030		61	11.96.170		142	11.108.030		20	69.50.311
		n9.46.116		4	19.122.040		62	11.96.180		143	11.108.040		21	69.50.413
136	1	66.44.316		5	19.122.050		63	<i>Leg. rev.</i>		144	11.108.050		22	<i>Par. veto</i>
137	1	28B.10.648		6	19.122.060		64	11.97.010		145	11.108.060			<i>Repealer</i>
	2	<i>Sev.</i>		7	19.122.070		65	11.97.900		146	11.108.900	154	1	<i>Intent</i>
		n28B.10.648		8	19.122.080		66	<i>Leg. rev.</i>		147	<i>Leg. rev.</i>			n46.16.381
138	1	82.01.120		9	<i>Sev.</i>		67	11.98.009		148	<i>Leg. rev.</i>		2	46.16.381
	2	41.06.087			19.122.900		68	11.98.016		149	11.110.050		3	46.61.565
	3	82.01.125		10	<i>Leg. dir.</i>		69	11.98.019		150	11.110.060		4	46.61.581
	4	82.01.130	145	1	46.37.467		70	<i>Leg. rev.</i>		151	<i>Leg. rev.</i>		5	46.61.582
	5	82.01.135	146	1	60.28.010		71	<i>Leg. rev.</i>		152	<i>Leg. rev.</i>		6	46.90.300
	6	43.88.020	147	1	36.94.410		72	11.98.039		153	11.110.073		7	46.90.463
	7	43.88.030		2	36.94.420		73	<i>Leg. dir.</i>		154	11.110.075		8	<i>Repealer</i>
	8	43.88.110		3	36.94.430		74	11.98.045		155	<i>Leg. rev.</i>		9	<i>Applic.</i>
	9	43.88.112		4	36.94.440		75	11.98.051		156	<i>Leg. rev.</i>			n46.16.381
	10	43.88.120		5	36.93.105		76	11.98.055		157	11.110.110		10	<i>Sev.</i>
	11	43.88.540		6	56.08.015		77	<i>Leg. rev.</i>		158	11.110.120			n46.16.381
	12	82.32.330		7	57.04.065		78	11.98.065		159	<i>Leg. rev.</i>	155	1	<i>Intent</i>
	13	<i>Approp.</i>		8	<i>Leg. dir.</i>		79	<i>Leg. rev.</i>		160	<i>Leg. rev.</i>			26.33.010
	14	<i>Em.</i>	148	1	19.118.030		80	11.98.070		161	11.110.200		2	26.33.020
139	1	<i>Temporary</i>		2	19.118.040		81	11.98.080		162	11.110.210		3	26.33.030
	2	<i>Temporary</i>	149	1	4.16.110		82	<i>Leg. rev.</i>		163	11.110.220		4	26.33.040
	3	<i>Temporary</i>		2	4.16.370		83	11.98.090		164	11.110.230		5	26.33.050
	4	<i>Temporary</i>		3	7.24.050		84	11.98.100		165	11.110.240		6	26.33.060
	5	<i>Temporary</i>		4	11.02.005		85	11.98.110		166	<i>Leg. rev.</i>		7	26.33.070
	6	<i>Temporary</i>		5	11.12.250		86	<i>Leg. rev.</i>		167	11.110.250		8	26.33.080

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	9	26.33.090		14	43.200.150		8	43.31.387		20	43.01.041		66	35.45.170
	10	26.33.100		15	<i>Constr.</i>		9	43.31.370		21	<i>Repealer</i>		67	36.88.295
	11	26.33.110			43.200.900		10	<i>Leg. dir.</i>		22	41.04.400		68	39.53.010
	12	26.33.120		16	<i>Leg. dir.</i>		11	<i>Sev.</i>		23	41.04.405		69	39.53.045
	13	26.33.130		17	<i>Sev.</i>			n43.31.373		24	41.04.410		70	<i>Repealer</i>
	14	26.33.140			43.200.903		12	43.131.315		25	41.04.415	187	1	70.142.010
	15	26.33.150		18	<i>Em.</i>		13	43.131.316		26	41.04.420		2	70.142.020
	16	26.33.160	162	1	41.04.370	176	1	43.31B.010		27	41.04.425		3	70.142.040
	17	26.33.170		2	41.04.375		2	43.31B.020		28	41.04.430		4	70.142.050
	18	26.33.180		3	41.04.380		3	43.31B.030		29	<i>Leg. dir.</i>		5	70.142.030
	19	26.33.190		4	<i>Temporary</i>		4	43.31B.040		30	<i>Approp.</i>		6	<i>Leg. dir.</i>
	20	26.33.200		5	<i>Approp.</i>		5	43.31B.050		31	<i>Sev.</i>	188	1	13.32A.170
	21	26.33.210		6	<i>Leg. dir.</i>		6	<i>Approp.</i>			n41.50.150		2	13.32A.190
	22	26.33.220	163	1	36.32.490		7	<i>Leg. dir.</i>		32	<i>Em.</i>		3	13.34.060
	23	26.33.240	164	1	70.94.850		8	<i>Sev.</i>	185	1	84.56.025		4	13.34.130
	24	26.33.230		2	70.94.860			43.31B.900	186	1	<i>Purpose</i>		5	74.15.030
	25	26.33.250		3	70.94.870		9	43.131.317			n39.46.110	189	1	18.11.210
	26	26.33.260	165	1	70.136.030		10	43.131.318		2	39.46.110		2	35.21.690
	27	26.33.270		2	70.136.050	177	1	35.38.010		3	39.36.050		3	18.11.120
	28	26.33.280		3	4.24.314		2	35.38.040		4	39.46.120		4	45.12.100
	29	26.33.290	166	1	81.68.010		3	35.38.055		5	17.28.260		5	35.23.440
	30	26.33.300		2	81.68.015		4	35.38.060		6	27.12.060		6	36.71.070
	31	26.33.310		3	81.68.020		5	35A.40.020		7	27.12.070	190	1	<i>Intent</i>
	32	26.33.320		4	81.68.030		6	35A.40.030		8	27.12.222			n48.21.250
	33	26.33.330		5	81.68.045		7	36.29.020		9	27.12.223		2	48.21.250
	34	26.33.340		6	81.68.060		8	36.48.010		10	28A.51.010		3	48.21.260
	35	26.33.360	167	1	9.91.025		9	36.48.060		11	28A.51.020		4	48.21.270
	36	26.33.370		2	46.04.355		10	39.58.010		12	28A.51.070		5	48.44.360
	37	26.33.350	168	1	87.03.016		11	39.58.020		13	28A.51.180		6	48.44.370
	38	<i>Repealer</i>		2	87.03.085		12	39.58.040		14	28A.52.050		7	48.44.380
	39	<i>Repealer</i>		3	87.03.435		13	39.58.050		15	35.37.040		8	48.46.440
	40	<i>Leg. dir.</i>		4	87.03.460		14	39.58.080		16	35.37.050		9	48.46.450
	41	<i>Eff. date, Applic.</i>	169	5	87.03.018		15	39.58.090		17	35.37.090		10	48.46.460
		26.33.900		1	19.126.010		16	39.58.100		18	35.58.450		11	<i>Repealer</i>
				2	19.126.020		17	39.58.108		19	35.59.060		12	<i>Applic.</i>
	42	<i>Sev.</i>		3	19.126.030		18	39.58.130		20	35.60.040			n48.21.250
		26.33.901		4	19.126.040		19	39.58.135		21	35.61.100		13	<i>Sev.</i>
156	1	70.58.320		5	19.126.050		20	43.85.230		22	35.67.070			n48.21.250
	2	70.58.322		6	19.126.060		21	<i>Repealer</i>		23	35.92.080	191	1	42.36.060
	3	70.58.324		7	19.126.900		22	<i>Temporary</i>		24	35A.40.010	192	1	82.45.032
	4	70.58.330		8	<i>Leg. dir.</i>	178	1	28A.04.155		25	36.58.150		2	82.45.090
	5	70.58.332		9	<i>Sev.</i>		2	28A.58.108		26	36.62.070		3	82.08.034
	6	70.58.334			19.126.901	179	1	84.64.030		27	36.67.010		4	82.12.034
	7	70.58.338	170	1	29.82.010		2	84.64.050		28	36.67.060		5	<i>Em.</i>
157	1	<i>Temporary</i>		2	29.82.015	180	1	<i>Temporary</i>		29	36.68.520	193	1	53.54.020
	2	<i>Temporary</i>		3	29.82.021		2	<i>Temporary</i>		30	36.69.140	194	1	47.28.030
	3	<i>Temporary</i>		4	29.82.023		3	<i>Temporary</i>		31	36.76.090		2	47.28.035
	4	<i>Em.</i>		5	29.82.025		4	<i>Temporary</i>		32	36.76.100	195	1	53.25.140
158	1	<i>Temporary</i>		6	29.82.030		5	<i>Exp. date</i>		33	36.76.120		2	53.25.150
	2	<i>Temporary</i>		7	29.82.090		6	<i>Sev.</i>		34	36.89.040	196	1	66.28.155
	3	<i>Temporary</i>		8	29.82.100		7	<i>Em.</i>		35	36.94.200	197	1	47.17.168
	4	<i>Temporary</i>		9	29.82.105	181	1	50.04.075		36	39.52.010		2	47.17.806
	5	<i>Temporary</i>		10	29.82.160		2	50.20.043		37	39.52.020		3	47.17.824
	6	<i>Temporary</i>		11	29.82.170	182		<i>Omnibus</i>		38	39.52.050		4	<i>Table of dispo.</i>
	7	<i>Temporary</i>		12	29.82.220			<i>Approp.</i>		39	52.16.061			n47.17.790
	8	<i>Temporary</i>		13	<i>Repealer</i>			<i>Act</i>		40	52.16.080		5	<i>Repealer</i>
	9	<i>Approp.</i>	171	1	81.80.040			(<i>Uncod.</i>)		41	53.36.030	198	1	38.12.170
	10	<i>Em.</i>	172	1	56.08.080	183	1	88.02.080		42	53.44.010		2	38.12.180
159	1	51.28.050	173	1	19.91.010		2	88.02.110		43	53.44.030		3	38.24.050
	2	51.28.055		2	19.91.911		3	43.51.402		44	54.16.070		4	38.24.060
	3	51.28.020		3	<i>Eff. date</i>		4	43.51.400		45	54.24.018		5	38.40.030
160	1	28A.13.010			n19.91.010		5	<i>Em.</i>		46	56.16.010		6	<i>Repealer</i>
	2	28A.13.065	174	1	<i>Purpose</i>	184	1	41.50.150		47	56.16.030	199	1	41.14.120
	3	28A.58.772			n43.51.405		2	<i>Repealer</i>		48	56.16.040		2	41.14.130
	4	72.40.040		2	43.51.405		3	2.10.095		49	56.16.050	200	1	72.33.660
	5	<i>Approp.</i>		3	43.51.407		4	2.12.080		50	56.16.115	201	1	26.09.105
	6	<i>Sev.</i>		4	43.51.409		5	41.26.065		51	57.16.020	202	1	60.04.200
		n28A.13.010		5	43.51.411		6	41.32.045		52	57.16.040		2	60.04.210
161	1	43.200.015		6	79.08.275		7	41.40.083		53	57.20.010		3	60.04.230
	2	43.200.020		7	79.08.277		8	43.43.225		54	57.20.015		4	60.04.020
	3	43.200.025		8	79.08.279		9	41.40.403		55	57.20.120	203	1	35.43.140
	4	43.200.030		9	79.08.281		10	41.26.450		56	67.28.150		2	35A.05.040
	5	43.200.040		10	79.08.283		11	41.32.775		57	67.38.110		3	35.21.395
	6	43.200.050		11	<i>Approp.</i>		12	41.40.650		58	68.16.110		4	36.32.435
	7	43.200.060	175	1	43.31.373		13	41.40.120		59	70.44.060		5	42.24.115
	8	43.200.070		2	43.31.375		14	41.40.310		60	70.44.110		6	36.32.500
	9	43.200.100		3	43.31.377		15	41.50.032		61	70.44.130		7	36.32.505
	10	43.200.110		4	43.31.379		16	41.26.210		62	86.15.170		8	<i>Temporary</i>
	11	43.200.120		5	43.31.381		17	41.26.220		63	89.30.400		9	84.09.030
	12	43.200.130		6	43.31.383		18	41.26.230		64	89.30.403		10	<i>Sev.</i>
	13	43.200.140		7	43.31.385		19	43.01.040		65	89.30.412			n35.43.140

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Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
204	11	<i>Em.</i>	6	18.16.140	214	1	77.12.201	17	79.90.530	6	52.02.070			
	1	84.33.035	7	18.16.030		2	77.12.203	18	79.90.535	7	52.02.080			
	2	84.33.041	8	18.16.150		3	<i>Eff. date</i>	19	79.90.540	8	52.02.090			
	3	84.33.042	9	18.16.050			n77.12.201	20	79.90.545	9	52.02.100			
	4	84.33.043	10	18.16.090	215	1	78.44.030	21	79.93.040	10	52.02.110			
	5	84.33.044	11	18.16.130		2	78.44.040	22	79.93.060	11	52.02.120			
	6	84.33.045	12	18.16.110		3	78.44.100	23	79.93.070	12	52.02.130			
	7	84.33.046	13	18.16.200		4	78.44.110	24	79.92.580	13	52.02.140			
	8	84.33.051	14	18.16.210		5	78.44.120	25	79.92.110	14	52.02.150			
	9	84.33.081	15	18.16.220		6	78.44.140	26	79.96.906	15	52.10.010			
	10	84.33.086	16	18.16.160		7	78.44.160	27	79.96.907	16	52.04.071			
	11	84.33.091	17	18.16.040		8	78.44.175	28	<i>Leg. dir.</i>	17	52.04.081			
	12	84.33.093	18	18.16.120		9	<i>Repealer</i>	29	<i>Leg. rev.</i>	18	52.12.011			
	13	84.33.096	19	18.16.080	216	1	42.17.510	30	<i>Repealer</i>	19	52.12.021			
	14	84.52.080	20	18.16.900		2	42.17.520	31	<i>Sev.</i>	20	52.12.041			
	15	39.36.015	21	<i>Leg. dir.</i>		3	42.17.530		79.90.901	21	52.12.051			
	16	84.33.010	22	<i>Sev.</i>		4	42.17.540	32	<i>Eff. date</i>	22	52.04.011			
	17	84.33.020		18.16.905		5	29.85.275		79.90.902	23	52.04.021			
	18	84.33.040	23	<i>Eff. date</i>		6	<i>Repealer</i>	222	1 79.66.010	24	52.04.031			
	19	84.33.074		18.16.907		7	<i>Leg. dir.</i>		2 79.66.020	25	52.04.041			
	20	84.33.075	209	1 9.92.150	217	1	43.43.550		3 79.66.030	26	52.04.051			
	21	84.33.077		2 9.92.900		2	<i>Em.</i>		4 79.66.040	27	52.12.061			
	22	84.33.078		3 9.94A.030	218	1	51.24.110		5 79.66.050	28	52.12.071			
	23	84.33.120		4 9.94A.090		2	51.24.020		6 79.66.060	29	52.14.020			
	24	84.33.170		5 9.94A.110		3	51.24.030		7 79.66.070	30	52.14.025			
	25	84.33.200		6 9.94A.120		4	51.24.050		8 79.66.080	31	52.14.030			
	26	82.32.010		7 9.94A.130		5	51.24.060		9 79.66.090	32	52.14.040			
	27	<i>Purpose</i>		8 9.94A.150		6	51.24.070		10 79.66.100	33	52.14.060			
		n84.28.200		9 9.94A.165		7	51.24.090		11 79.01.216	34	52.14.070			
	28	84.28.200		10 9.94A.190		8	51.24.120		12 79.01.242	35	52.14.080			
	29	84.28.205		11 9.94A.195		9	<i>Applic.</i>		13 79.01.612	36	52.14.090			
	30	84.28.210		12 9.94A.200			51.24.902		14 <i>Leg. dir.</i>	37	52.14.100			
	31	84.28.215		13 9.94A.210	219	1	<i>Eff. dates</i>		15 <i>Sev.</i>	38	52.16.010			
	32	84.33.055		14 9.94A.220			n46.20.308			39	52.16.020			
	33	84.33.056		15 9.94A.270		2	46.20.599		16 <i>Eff. date</i>	40	52.16.030			
	34	84.33.057		16 9.94A.310	220	1	84.36.030			41	52.16.040			
	35	84.33.058		17 9.94A.320		2	84.36.040	223	1 43.52A.040	42	52.16.050			
	36	84.33.059		18 9.94A.330		3	84.36.045	224	1 46.16.216	43	52.16.070			
	37	84.33.061		19 9.94A.360		4	84.36.047		2 46.63.060	44	52.16.130			
	38	84.33.062		20 9.94A.370		5	84.36.050		3 46.63.070	45	52.16.140			
	39	84.33.063		21 9.94A.380		6	84.36.480		4 <i>Repealer</i>	46	52.16.150			
	40	84.33.064		22 9.94A.383		7	84.36.805		5 <i>Sev.</i>	47	52.16.170			
	41	84.33.065		23 9.94A.386		8	84.36.810			48	52.20.010			
	42	84.33.066		24 9.94A.390		9	84.36.812		n46.16.216	49	52.20.020			
	43	84.33.067		25 9.94A.400		10	84.36.815		6 <i>Eff. date</i>	50	52.20.025			
	44	<i>Temporary</i>		26 9.94A.410		11	84.36.820	225	1 <i>Intent</i>	51	52.20.027			
	45	<i>Applic.</i>		27 71.06.005		12	84.36.830			52	52.20.060			
		n84.28.200		28 72.65.020		13	84.40.350		n82.14.210	53	52.20.070			
	46	<i>Leg. dir.</i>		29 72.65.030		14	84.40.360		2 82.14.210	54	52.08.011			
	47	<i>Repealer</i>		30 72.65.040		15	84.40.370		3 <i>Applic.</i>	55	52.08.035			
	48	<i>Savings</i>		31 <i>Repealer</i>		16	84.40.380			56	52.08.051			
		n84.33.035		32 <i>Repealer</i>		17	84.40.390		n82.14.210	57	52.06.010			
	49	<i>Eff. date</i>		33 <i>Eff. dates</i>		18	84.64.030		4 82.14.220	58	52.06.020			
		n84.33.035			n9.92.150	19	84.64.050		5 82.14.200	59	52.06.030			
205	1	50.20.120	210	1	67.40.020	20	84.38.020		6 35.21.870	60	52.06.040			
	2	50.24.010		2	41.06.070	21	84.38.030	226	1 15.36.115	61	52.06.060			
	3	50.29.010		3	41.05.110	22	84.38.040		2 15.36.060	62	52.06.070			
	4	50.29.027		4	43.01.045	23	84.38.100		3 15.36.120	63	52.06.080			
	5	50.29.025		5	41.04.800	24	84.38.110		4 15.36.140	64	52.06.090			
	6	50.29.062		6	41.40.810	25	84.38.120		5 15.36.260	65	52.06.100			
	7	50.29.020		7	<i>Savings</i>	26	84.38.130	227	1 41.04.440	66	52.22.011			
	8	50.20.044			n67.40.020	27	84.38.140		2 41.04.445	67	52.22.021			
	9	50.20.015		8	<i>Sev.</i>	28	<i>Repealer</i>		3 41.04.450	68	52.22.031			
	10	50.29.065			n67.40.020	29	<i>Eff. date</i>		4 <i>Eff. date</i>	69	52.22.041			
	11	n50.20.120		9	<i>Em.</i>		n84.38.120			70	52.22.051			
	12	<i>Sev.</i>	211	1	<i>Intent</i>	221	1	79.90.450		5 <i>Approp.</i>	71	52.22.061		
		n50.20.120			n29.07.025		2	79.90.455		6 n41.04.440	72	52.22.071		
	13	<i>Repealer</i>		2	29.07.025		3	79.90.460		7 <i>Sev.</i>	73	52.22.081		
	14	<i>Eff. dates</i>		3	29.07.010		4	79.90.465			74	52.22.091		
		n50.20.120	212	1	86.26.007		5	79.90.470	228	1 28A.58.560	75	52.22.101		
206	1	43.43.270		2	86.26.010		6	79.90.475	229	1 52.12.101	76	52.30.010		
	2	<i>Applic.</i>		3	86.26.040		7	79.90.480		2 52.12.102	77	52.12.111		
		n43.43.270		4	86.26.050		8	79.90.485		3 52.12.103	78	52.12.121		
	3	<i>Em.</i>		5	86.26.060		9	79.90.490		4 52.12.104	79	52.30.040		
207	1	9.46.020		6	86.26.080		10	79.90.495		5 52.12.106	80	52.30.050		
208	1	<i>Intent</i>		7	86.26.090		11	79.90.500		6 52.12.108	81	52.12.131		
		18.16.010		8	86.26.100		12	79.90.505	230	1 52.02.020	82	35.21.775		
	2	18.16.020		9	86.26.105		13	79.90.510		2 52.02.030	83	41.26.030		
	3	18.16.060		10	79.01.135		14	79.90.515		3 52.02.040	84	57.20.100		
	4	18.16.070		11	<i>Repealer</i>		15	79.90.520		4 52.02.050	85	52.14.015		
	5	18.16.100	213	1	35.80.030		16	79.90.525		5 52.02.060	86	52.22.111		

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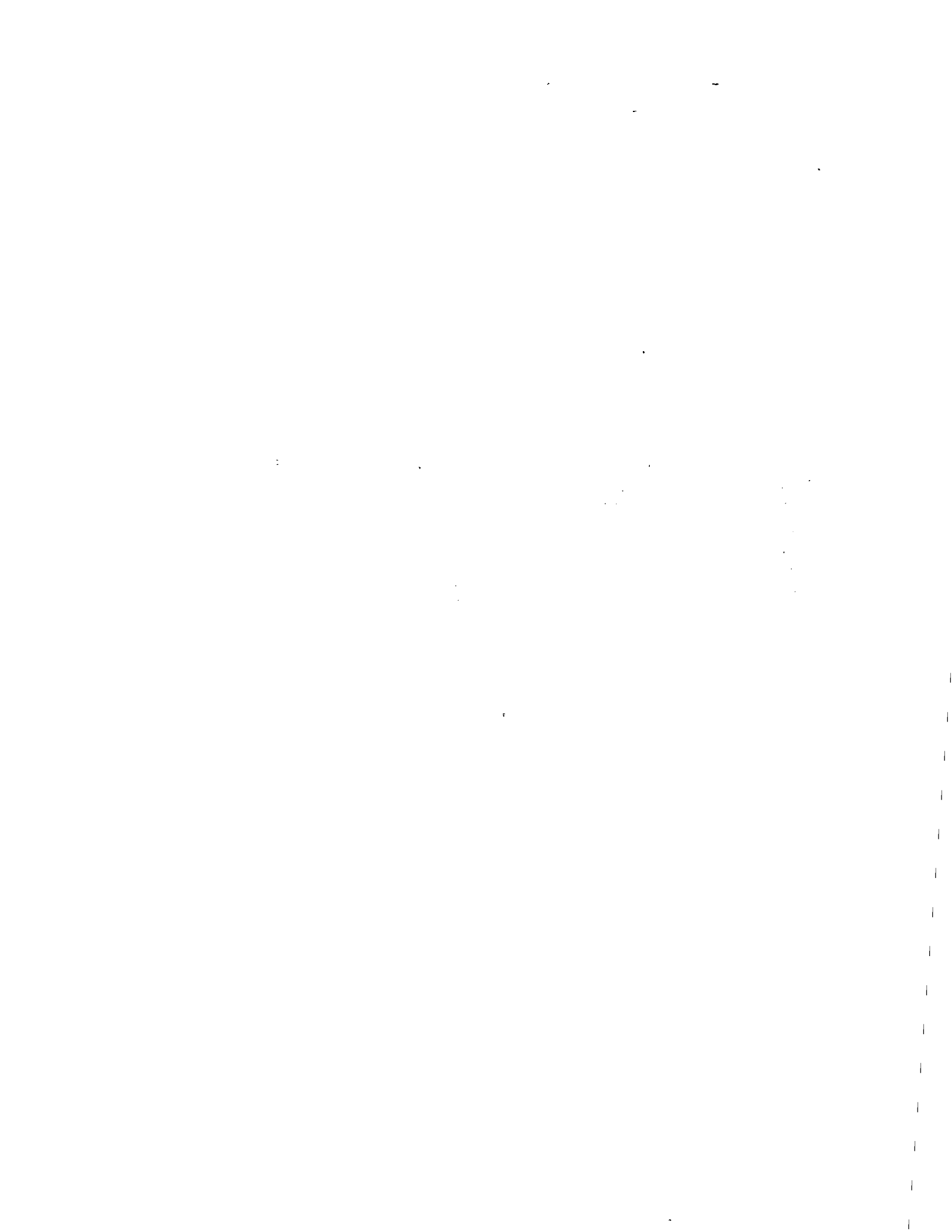
Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	
	87	<i>Repealer</i>	246	1	9.94A.160		4	<i>Par. veto</i>		35	3.58.020		121	3.50.450	
	88	<i>Leg. rev.</i>		2	<i>Approp.</i>			80.28.010		36	3.58.030		122	3.50.125	
	89	<i>Leg. rev.</i>		3	<i>Temporary</i>		5	35.21.301		37	3.58.040		123	3.50.115	
231	1	<i>Temporary</i>		4	<i>Temporary</i>		6	54.16.286		38	3.58.050		124	3.50.095	
	2	<i>Temporary</i>		5	<i>Temporary</i>		7	80.28.011		39	3.62.070		125	3.50.003	
	3	<i>Temporary</i>		6	<i>Temporary</i>	252	1	78.22.010		40	3.66.010		126	3.50.135	
	4	<i>Temporary</i>		7	<i>Temporary</i>		2	78.22.020		41	3.66.020		127	3.50.425	
	5	<i>Temporary</i>		8	<i>Temporary</i>		3	78.22.030		42	3.66.040		128	<i>Applic.</i>	
	6	<i>Temporary</i>		9	72.09.240		4	78.22.040		43	3.66.050		n3.50.005		
	7	<i>Temporary</i>		10	<i>Approp.</i>		5	78.22.050		44	3.66.060		129	<i>Leg. rev.</i>	
	8	<i>Temporary</i>		11	<i>Em.</i>		6	78.22.060		45	3.66.065		130	<i>Repealer</i>	
	9	<i>Temporary</i>		12	<i>Sev.</i>		7	78.22.070		46	3.66.067		131	<i>Repealer</i>	
	10	<i>Temporary</i>		n9.94A.160			8	78.22.080		47	3.66.070		132	<i>Repealer</i>	
	11	<i>Exp. date</i>		13	<i>Exp. date</i>		9	78.22.090		48	3.66.080		133	<i>Repealer</i>	
	12	<i>Em.</i>	247	1	43.88.037		10	<i>Leg. dir.</i>		49	3.66.090		134	<i>Repealer</i>	
232	1	28B.15.014		2	43.88.027		253	1	35.63.090		50	3.70.010		135	<i>Repealer</i>
	2	<i>Sev.</i>		3	43.88.090			2	35A.63.061		51	3.70.020		136	46.08.190
	3	n28B.15.014		4	<i>Repealer</i>			3	36.70.330		52	3.70.030		137	46.63.040
		<i>Em.</i>	248	1	82.14C.010			4	90.54.130		53	3.70.040		138	46.83.050
233	1	71.05.150		2	82.14C.020			5	90.54.140		54	3.74.010		139	78.12.030
	2	<i>Em.</i>		3	82.14C.030		254	1	70.105.165		55	3.74.020		201	35.20.010
234	1	<i>Temporary</i>		4	<i>Leg. dir.</i>			2	70.105.160		56	3.74.030		202	3.50.800
	2	<i>Temporary</i>		5	<i>Eff. date</i>			3	<i>Sev.</i>		57	12.40.010		203	3.50.805
	3	<i>Temporary</i>		82.14C.900				n70.105.160		58	12.40.020		204	35.22.425	
235	1	70.48.400	249	1	70.77.126		255	1	70.94.430		59	12.40.025		205	35.23.595
	2	70.48.410		2	70.77.131			2	70.94.431		60	12.40.030		206	35.24.455
	3	70.48.420		3	70.77.136		256	1	41.32.010		61	12.40.040		207	35.27.515
	4	70.48.430		4	70.77.146			2	41.32.242		62	12.40.050		208	35.30.100
	5	70.48.440		5	70.77.180			3	<i>Vetoed</i>		63	12.40.060		209	35A.11.200
	6	70.48.450		6	70.77.177		257	1	43.160.010		64	12.40.070		210	3.46.150
	7	70.48.460		7	70.77.250			2	43.160.020		65	12.40.080		301	<i>Intent</i>
	8	70.48.240		8	70.77.575			3	43.160.100		66	12.40.090		n3.46.120	
	9	<i>Leg. dir.</i>		9	70.77.580			4	43.160.110		67	12.40.100		302	3.34.130
	10	<i>Eff. dates</i>		10	70.77.255			5	43.160.120		68	12.40.110		303	3.46.120
		n70.48.400		11	70.77.260			6	43.160.130		69	12.40.120		304	3.50.100
236	1	41.32.401		12	70.77.265			7	43.160.140		70	7.20.140		305	3.62.010
	2	41.32.405		13	70.77.270			8	43.160.150		71	35.20.100		306	3.62.020
	3	41.32.403		14	70.77.280			9	43.160.160		72	3.46.010		307	3.62.040
	4	<i>Repealer</i>		15	70.77.285			10	43.160.170		73	3.46.020		308	3.62.050
	5	<i>Sev.</i>		16	70.77.290			11	39.84.200		74	3.46.040		309	3.62.060
		n41.32.401		17	70.77.295			12	43.160.080		75	3.46.060		310	27.24.070
	6	<i>Eff. date</i>		18	70.77.305			13	<i>Vetoed</i>		76	3.46.070		311	7.68.035
		n41.32.401		19	70.77.311			14	43.160.902		77	3.46.080		312	9.41.160
237	1	70.105.090		20	70.77.325			15	<i>Repealer</i>		78	3.46.090		313	10.82.070
	2	70.105.145		21	70.77.355			16	<i>Leg. dir.</i>		79	3.46.100		314	28A.87.010
	3	70.105.110		22	70.77.360			17	<i>Vetoed</i>		80	<i>Repealer</i>		315	28A.87.060
238	1	52.12.031		23	70.77.365			18	<i>Em.</i>		81	<i>Repealer</i>		316	28A.87.070
	2	52.14.050		24	70.77.395		258	1	n3.30.010		82	<i>Repealer</i>		317	28A.87.130
	3	52.14.110		25	70.77.415			2	<i>Index</i>		83	<i>Repealer</i>		318	28A.87.140
	4	52.14.120		26	70.77.420			3	3.30.010		84	<i>Repealer</i>		319	35.20.220
	5	<i>Repealer</i>		27	70.77.425			4	3.30.030		85	<i>Repealer</i>		320	35A.42.010
239	1	n77.12.650		28	70.77.430			5	3.30.040		86	<i>Repealer</i>		321	35A.47.030
	2	77.12.650		29	70.77.440			6	3.30.050		87	<i>Repealer</i>		322	36.18.025
	3	77.12.655		30	70.77.485			7	3.30.080		88	4.84.250		323	46.08.172
	4	77.12.660		31	70.77.510			8	3.34.020		89	12.20.060		324	46.20.285
	5	<i>Leg. dir.</i>		32	70.77.515			9	3.34.030		90	3.30.015		325	46.20.311
240	1	77.04.090		33	70.77.520			10	3.34.040		91	2.06.040		326	46.20.680
	2	77.12.030		34	70.77.517			11	3.34.050		92	4.84.010		327	46.44.105
	3	77.12.040		35	70.77.535			12	3.34.060		93	<i>Repealer</i>		328	46.61.515
	4	77.12.150		36	70.77.540			13	3.34.070		94	12.24.135		329	46.61.587
	5	77.32.340		37	70.77.488			14	3.34.080		95	26.04.050		330	46.63.110
	6	77.32.350		38	<i>Vetoed</i>			15	3.34.090		101	3.50.005		331	46.81.070
	7	77.32.370		39	<i>Vetoed</i>			16	3.34.100		102	3.50.007		332	75.08.230
	8	77.32.007		40	<i>Repealer</i>			17	3.34.110		103	3.50.010		333	69.50.505
241	1	46.01.260		41	<i>Sev.</i>			18	3.34.120		104	3.50.020		334	77.12.170
	2	46.12.380			70.77.912			19	3.34.130		105	3.50.030		335	77.12.201
242	1	41.04.260		42	<i>Vetoed</i>			20	3.34.140		106	3.50.040		336	77.21.070
	2	<i>Approp.</i>	250	1	82.49.020			21	3.34.150		107	3.50.050		337	3.62.090
	3	<i>Em.</i>		2	<i>Par. veto</i>			22	3.38.010		108	3.50.060		338	43.08.250
243	1	43.20.025			88.02.030			23	3.38.020		109	3.50.070		339	<i>Repealer</i>
	2	43.20.030		3	88.02.025			24	3.38.022		110	3.50.097		340	<i>Temporary</i>
	3	<i>Temporary</i>		4	82.49.070			25	3.38.030		111	3.50.080		401	2.04.092
244	1	43.63A.200		5	84.08.200			26	3.38.031		112	3.50.090		402	2.06.062
	2	43.79.450		6	<i>Repealer</i>			27	3.38.040		113	3.50.093		403	2.08.092
	3	43.79.452		7	84.56.260			28	3.38.050		114	3.50.110		404	<i>Par. veto</i>
	4	<i>Temporary</i>		8	<i>Em.</i>			29	3.38.060		115	3.50.300		<i>Repealer</i>	
	5	<i>Approp.</i>	251	1	<i>Par. veto</i>			30	3.42.010		116	3.50.320		405	<i>Vetoed</i>
	6	<i>Eff. dates</i>			35.21.300			31	3.42.020		117	3.50.330		501	7.75.010
		n43.63A.200		2	<i>Par. veto</i>			32	3.42.030		118	3.50.340		502	7.75.020
245	1	28A.58.095			54.16.285			33	3.42.040		119	3.50.430		503	7.75.030
	2	<i>Em.</i>		3	54.16.290			34	3.54.010		120	3.50.440		504	7.75.040

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Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.	Chap. Sec.	Rev. Code of Wash.					
	505	7.75.050		36	<i>Temporary</i>		3	28A.03.434	275	1	19.130.010		26	18.22.017
	506	7.75.060		37	<i>Temporary</i>		4	28A.03.436		2	19.130.020		27	18.25.018
	507	7.75.070		38	<i>Temporary</i>		5	28A.03.438		3	19.130.030		28	18.26.027
	508	7.75.080		39	<i>Exp. date</i>		6	n28A.03.430		4	19.130.040		29	18.29.075
	509	7.75.090		40	74.20A.030		7	<i>Leg. dir.</i>		5	19.130.050		30	18.32.038
	510	<i>Leg. dir.</i>		41	74.20A.270	266	1	28A.47.840		6	19.130.900		31	18.32.535
	511	7.06.010		42	<i>Leg. dir.</i>		2	28A.47.841		7	19.130.060		32	18.34.135
	512	4.48.010		43	<i>Sev.</i>		3	28A.47.842		8	19.130.901		33	18.35.173
	513	4.48.020			26.18.900		4	28A.47.843		9	<i>Leg. dir.</i>		34	18.36.135
	514	4.48.030		44	<i>Repealer</i>		5	28A.47.844	276	1	6.24.010		35	18.39.176
	515	4.48.040	261	1	43.121.020		6	28A.47.845		2	6.24.015		36	18.50.125
	516	4.48.050		2	43.121.090		7	28A.47.846		3	6.24.100		37	18.52.065
	517	4.48.060		3	43.121.100		8	<i>Sev.</i>		4	6.24.140		38	18.54.075
	518	4.48.070		4	36.18.010			n28A.47.840		5	6.24.145		39	18.55.065
	519	4.48.080		5	43.131.319		9	<i>Leg. dir.</i>		6	6.24.180		40	18.57.009
	520	4.48.090		6	43.131.320		10	<i>Em.</i>		7	6.04.100		41	18.71.018
	521	4.48.110		7	<i>Repealer</i>	267	1	28C.04.520		8	<i>Applic.</i>		42	18.72.153
	522	4.48.120		8	<i>Sev.</i>		2	28C.04.525			n6.24.010		43	18.74.028
	523	4.48.130			n43.121.020		3	28C.04.530	277	1	<i>Intent</i>		44	18.78.053
	524	4.48.100	262	1	9.68A.001		4	28C.04.535			70.94.800		45	18.83.053
	601	<i>Temporary</i>		2	9.68A.011		5	28C.04.540		2	70.94.805		46	18.88.085
	602	<i>Temporary</i>		3	9.68A.040		6	28B.15.545		3	70.94.810		47	18.92.045
	603	<i>Temporary</i>		4	9.68A.050		7	28C.04.545		4	<i>Temporary</i>		48	18.108.075
	604	2.56.120		5	9.68A.060		8	28C.04.550		5	70.94.815		49	18.25.015
	701	3.66.100		6	9.68A.070		9	<i>Approp.</i>		6	70.94.820		50	18.32.035
	702	12.16.015		7	9.68A.080		10	<i>Leg. dir.</i>		7	70.94.825		51	18.32.560
	703	<i>Repealer</i>		8	9.68A.090		11	<i>Em.</i>		8	<i>Approp.</i>		52	18.34.120
	801	35.20.030		9	9.68A.100	268	1	9A.36.080		9	<i>Leg. dir.</i>		53	18.39.175
	802	35.22.280		10	9.68A.110	269	1	43.83H.184		10	<i>Em.</i>		54	18.54.030
	803	35.23.440		11	9.68A.120		2	43.83H.186	278	1	28A.58.094		55	18.73.040
	804	35.24.290		12	9.68A.130		3	43.83H.188		2	28A.05.005		56	18.108.020
	805	35.27.370		13	<i>Repealer</i>		4	43.83H.190		3	28A.58.090		57	18.120.020
	806	35.30.010		14	<i>Leg. dir.</i>		5	43.83H.192		4	<i>Repealer</i>		58	18.20.050
	807	35A.11.020		15	<i>Sev.</i>		6	43.83H.194		5	28A.03.425		59	18.120.040
	808	9A.20.010			9.68A.910		7	<i>Sev.</i>		6	28A.05.060		60	43.24.110
	901	<i>Approp.</i>	263	1	26.50.900			43.83H.915		7	28A.58.195		61	43.24.075
	902	<i>Eff. dates</i>		2	26.50.010		8	<i>Leg. dir.</i>		8	28A.03.360		62	18.32.620
		n3.30.010		3	26.50.020		9	<i>Em.</i>		9	<i>Temporary</i>		63	18.29.056
	903	<i>Sev.</i>		4	26.50.030	270	1	9A.82.010		10	28A.03.365		64	<i>Vetoed</i>
		n3.30.010		5	26.50.040		2	9A.82.020		11	28A.03.370		65	<i>Par. veto</i>
259	1	<i>Par. veto</i>		6	26.50.050		3	9A.82.030		12	28A.16.040			18.52.070
	2	43.20A.360		7	26.50.060		4	9A.82.040		13	28A.16.060		66	<i>Vetoed</i>
	3	43.20A.375		8	26.50.070		5	9A.82.050		14	28A.16.050		67	<i>Vetoed</i>
	4	43.131.221		9	26.50.080		6	9A.82.060		15	<i>Repealer</i>		68	18.52.090
	5	43.131.222		10	26.50.090		7	9A.82.070		16	28A.05.070		69	18.52.110
260	1	26.18.010		11	26.50.100		8	9A.82.080		17	28B.15.543		70	<i>Par. veto</i>
	2	26.18.020		12	26.50.110		9	9A.82.090		18	28B.10.045			18.52.120
	3	26.18.030		13	26.50.120		10	9A.82.100		19	28B.10.050		71	18.52.160
	4	26.18.040		14	26.50.130		11	9A.82.110		20	28B.10.052		72	18.52.055
	5	26.18.050		15	26.50.200		12	9A.82.120		21	28A.03.380		73	<i>Repealer</i>
	6	26.18.060		16	26.50.210		13	9A.82.130		22	n28A.03.425		74	<i>Leg. dir.</i>
	7	26.18.070		17	26.50.140		14	9A.82.140		23	<i>Eff. date</i>		75	18.83.010
	8	26.18.080		18	9A.36.040		15	9A.82.150			n28A.05.070		76	18.83.035
	9	26.18.090		19	10.31.100		16	9A.82.160		24	<i>Sev.</i>		77	18.83.045
	10	26.18.100		20	10.99.020		17	9A.82.170			n28A.58.094		78	18.83.050
	11	26.18.110		21	10.99.030		18	9A.04.080	279	1	<i>Intent</i>		79	18.83.060
	12	26.18.120		22	10.99.040		19	<i>Leg. dir.</i>			18.130.010		80	18.83.070
	13	26.18.130		23	10.99.045		20	<i>Sev.</i>		2	18.130.020		81	18.83.072
	14	26.18.140		24	10.99.050			9A.82.900		3	18.130.030		82	18.83.082
	15	26.18.150		25	10.99.055		21	<i>Eff. date</i>		4	18.130.040		83	18.83.090
	16	6.12.100		26	26.09.060			9A.82.901		5	18.130.050		84	18.83.120
	17	11.52.010		27	26.09.180		1	43.83.198		6	18.130.060		85	18.83.130
	18	11.52.012		28	26.09.300	271	1	43.83.200		7	18.130.070		86	18.83.135
	19	11.52.020		29	36.18.020		3	43.83.202		8	18.130.080		87	18.83.025
	20	11.52.022		30	<i>Leg. dir.</i>		4	43.83.204		9	18.130.090		88	18.83.145
	21	26.09.135		31	26.50.035		5	43.83.206		10	18.130.100		89	18.83.155
	22	26.21.125		32	<i>Eff. date</i>		6	43.83.208		11	18.130.110		90	18.83.161
	23	26.26.132			26.50.901		7	<i>Sev.</i>		12	18.130.120		91	18.83.165
	24	26.18.035		33	<i>Sev.</i>			43.83.210		13	18.130.130		92	18.83.170
	25	26.18.160	264	1	28B.14F.070		8	<i>Leg. dir.</i>		14	18.130.140		93	<i>Repealer</i>
	26	26.20.030		2	28B.14F.072	272	1	13.04.030		15	18.130.150		94	43.131.323
	27	26.20.035		3	28B.14F.074	273	1	9A.52.110		16	18.130.160		95	<i>Sev.</i>
	28	26.20.080		4	28B.14F.076		2	9A.52.120		17	18.130.170			18.130.901
	29	74.20.040		5	28B.14F.078		3	9A.52.130		18	18.130.180	280	1	63.14.010
	30	6.12.105		6	<i>Sev.</i>		4	9A.48.100		19	18.130.190		2	63.14.090
	31	26.26.090			28B.14F.952		5	9A.52.010		20	18.130.200		3	63.14.120
	32	26.26.100		7	<i>Leg. dir.</i>		6	9A.56.010		21	18.130.300		4	63.14.125
	33	26.26.110		8	<i>Em.</i>	274	1	46.61.519		22	18.130.210		5	63.14.130
	34	26.26.120	265	1	28A.03.430		2	46.61.5191		23	18.130.310		6	63.14.140
	35	26.26.140		2	28A.03.432		3	46.61.5195		24	18.130.900		7	63.14.150
										25	43.24.140		8	63.14.151

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Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.	Chap.	Sec.	Rev. Code of Wash.
	9	63.14.160		6	<i>Par. veto</i>		69	41.06.110		29	<i>Vetoed</i>
	10	63.14.165			43.230.050		70	41.24.270	289	1	49.70.900
	11	<i>Par. veto</i>		7	<i>Vetoed</i>		71	41.58.015		2	49.70.010
		63.14.167		8	<i>Vetoed</i>		72	41.60.015		3	<i>Vetoed</i>
	12	63.14.180		9	<i>Vetoed</i>		73	41.64.030		4	<i>Vetoed</i>
	13	<i>Sev.</i>		10	<i>Vetoed</i>		74	42.17.350		5	<i>Vetoed</i>
		63.14.904		11	43.131.321		75	43.20.030		6	<i>Vetoed</i>
281	1	18.135.010		12	43.131.322		76	43.21A.180		7	<i>Vetoed</i>
	2	18.135.020		13	<i>Sev.</i>		77	43.22.475		8	<i>Vetoed</i>
	3	18.135.040			n43.230.010		78	43.24.060		9	<i>Vetoed</i>
	4	18.135.030		14	<i>Leg. dir.</i>		79	43.24.110		10	<i>Vetoed</i>
	5	18.135.050		15	<i>Approp.</i>		80	43.33A.050		11	<i>Vetoed</i>
	6	18.135.060		16	<i>Em.</i>		81	43.49.010		12	<i>Vetoed</i>
	7	18.135.070	287	1	n43.03.220		82	43.51.020		13	<i>Vetoed</i>
	8	18.135.080		2	43.03.220		83	43.57.020		14	<i>Vetoed</i>
	9	18.135.090		3	43.03.230		84	43.99.110		15	49.70.100
	10	<i>Temporary</i>		4	43.03.240		85	43.101.070		16	49.70.110
	11	<i>Vetoed</i>		5	43.03.250		86	43.105.032		17	49.70.120
	12	<i>Leg. dir.</i>		6	1.08.005		87	43.121.030		18	49.70.130
282	1	<i>Temporary</i>		7	2.32.160		88	43.126.075		19	<i>Vetoed</i>
	2	<i>Temporary</i>		8	2.64.040		89	43.160.030		20	49.70.140
	3	<i>Vetoed</i>		9	9.46.050		90	43.180.040		21	49.70.150
	4	<i>Temporary</i>		10	9.94A.060		91	43.200.040		22	<i>Vetoed</i>
	5	<i>Temporary</i>		11	13.40.025		92	44.60.050		23	49.70.160
	6	<i>Temporary</i>		12	15.24.050		93	46.82.300		24	49.70.170
	7	43.175.010		13	15.26.100		94	47.01.061		25	49.70.180
	8	43.175.020		14	15.28.090		95	47.64.280		26	49.70.190
	9	<i>Vetoed</i>		15	15.44.038		96	48.17.135		27	49.70.200
	10	<i>Vetoed</i>		16	15.65.270		97	49.04.010		28	<i>Leg. dir.</i>
	11	<i>Vetoed</i>		17	15.66.130		98	49.60.070		29	<i>Approp.</i>
	12	<i>Vetoed</i>		18	15.76.170		99	67.08.003		30	<i>Sev.</i>
	13	<i>Exp. date</i>		19	16.67.070		100	67.16.017			49.70.905
		43.175.900		20	18.04.080		101	67.70.270			
	14	<i>Leg. dir.</i>		21	18.08.120		102	68.05.060			
	15	<i>Approp.</i>		22	<i>Vetoed</i>		103	70.37.030			
	16	<i>Approp.</i>		23	<i>Vetoed</i>		104	70.39.050			
	17	<i>Sev.</i>		24	<i>Vetoed</i>		105	70.79.020			
		43.175.901		25	<i>Vetoed</i>		106	70.95B.070			
	18	<i>Exp. date</i>		26	18.22.014		107	72.09.150			
	19	<i>Em.</i>		27	18.25.017		108	76.09.030			
283	1	48.44.026		28	18.26.070		109	76.09.220			
	2	<i>Vetoed</i>		29	18.29.031		110	77.04.060			
284	1	<i>Vetoed</i>		30	18.32.050		111	88.16.020			
	2	<i>Vetoed</i>		31	18.32.600		112	89.08.040			
	3	<i>Vetoed</i>		32	18.34.050		113	43.03.260			
	4	<i>Vetoed</i>		33	18.35.150		114	n43.03.220			
	5	<i>Vetoed</i>		34	18.39.175		115	<i>Sev.</i>			
	6	<i>Vetoed</i>		35	18.43.030			n43.03.220			
	7	<i>Vetoed</i>		36	18.44.208		116	<i>Eff. date</i>			
	8	<i>Vetoed</i>		37	18.44.215			n43.03.220			
	9	<i>Vetoed</i>		38	<i>Vetoed</i>	288	1	70.39.010			
	10	<i>Vetoed</i>		39	18.51.100		2	70.39.020			
	11	<i>Vetoed</i>		40	18.52.060		3	70.39.030			
	12	<i>Vetoed</i>		41	18.54.130		4	70.39.040			
	13	<i>Vetoed</i>		42	18.57.003		5	70.39.050			
	14	<i>Vetoed</i>		43	18.64.003		6	70.39.060			
	15	<i>Vetoed</i>		44	18.71.015		7	70.39.070			
	16	<i>Vetoed</i>		45	18.72.100		8	70.39.080			
	17	<i>Vetoed</i>		46	18.74.020		9	70.39.090			
	18	<i>Vetoed</i>		47	18.78.040		10	70.39.100			
	19	72.09.250		48	18.83.051		11	70.39.110			
	20	<i>Vetoed</i>		49	18.85.080		12	70.39.120			
	21	<i>Vetoed</i>		50	18.88.080		13	70.39.130			
	22	<i>Vetoed</i>		51	18.92.040		14	<i>Par. veto</i>			
285	101-	<i>Par. veto</i>		52	18.96.050			70.39.140			
	606	<i>Omnibus</i>		53	18.108.020		15	70.39.165			
		<i>Approp.</i>		54	19.16.310		16	<i>Temporary</i>			
		<i>Act</i>		55	19.27.070		17	<i>Temporary</i>			
		<i>(Uncod.)</i>		56	19.28.065		18	70.39.150			
	607	82.32.400		57	19.28.123		19	70.39.160			
	608-			58	27.04.020		20	70.39.200			
	610	<i>Approp.</i>		59	27.08.010		21	70.38.105			
	611	<i>Repealer</i>		60	28A.04.110		22	<i>Par. veto</i>			
	612	<i>Sev.</i>		61	28A.92.050			70.38.115			
		n82.32.400		62	28B.07.030		23	70.39.195			
	613	<i>Em.</i>		63	28B.16.060		24	70.39.125			
286	1	n43.230.010		64	28B.50.050		25	43.131.253			
	2	43.230.010		65	28B.80.110		26	43.131.254			
	3	43.230.020		66	28C.04.070		27	<i>Sev.</i>			
	4	43.230.030		67	28C.04.300			n70.39.010			
	5	43.230.040		68	41.05.025		28	<i>Approp.</i>			



DISPOSITION OF FORMER RCW SECTIONS

This table contains a numerical list of RCW sections no longer appearing in the code because of the repeal, expiration, decodification, or recodification of the sections. Each entry gives the affected RCW number, its caption, and the section's session law source and disposition. The text of the section can be found by referring to the session law source citation contained in brackets.

— section number
— caption
— session law source
2.36.031 Grand jury—How summoned. [1951 c 90 § 1.] Repealed
 by 1971 ex.s. c 67 § 20. Later enactment, see RCW 10.27.030.
— disposition
— similar section (where applicable)

Title 2 COURTS OF RECORD

Chapter 2.04 SUPREME COURT

2.04.090 Salary—Timely completion of opinions required. [1984 c 64 § 1; 1979 ex.s. c 255 § 4; 1977 ex.s. c 318 § 2; 1975 1st ex.s. c 263 § 2; 1974 ex.s. c 149 § 3 (Initiative Measure No. 282, approved November 6, 1973); 1973 c 106 § 2; 1972 ex.s. c 100 § 1; 1965 ex.s. c 127 § 1; 1957 c 260 § 1; 1953 c 144 § 1. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.] Repealed by 1984 c 258 § 404, effective July 1, 1985. Later enactment, see RCW 2.04.092.

Chapter 2.06 COURT OF APPEALS

2.06.060 Salaries—Timely completion of opinions required. [1984 c 64 § 2; 1979 ex.s. c 255 § 5; 1977 ex.s. c 318 § 3; 1975 1st ex.s. c 263 § 3; 1974 ex.s. c 149 § 4 (Initiative Measure No. 282, approved November 6, 1973); 1973 c 106 § 3; 1972 ex.s. c 100 § 2; 1969 ex.s. c 221 § 6.] Repealed by 1984 c 258 § 404, effective July 1, 1985. Later enactment, see RCW 2.06.062.

Chapter 2.08 SUPERIOR COURTS

2.08.090 Salary. [1984 c 64 § 3; 1979 ex.s. c 255 § 6; 1977 ex.s. c 318 § 4; 1975 1st ex.s. c 263 § 4; 1974 ex.s. c 149 § 5 (Initiative Measure No. 282, approved November 6, 1973); 1972 ex.s. c 100 § 3; 1967 c 65 § 1; 1965 ex.s. c 127 § 2; 1957 c 260 § 2; 1953 c 144 § 2. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1923 c 169 § 1; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.] Repealed by 1984 c 258 § 404, effective July 1, 1985. Later enactment, see RCW 2.08.092.

Chapter 2.56 ADMINISTRATOR FOR THE COURTS

2.56.100 Penalty assessment in addition to penalty resulting from bearing under RCW 46.63.090 or 46.63.100—Paid into judiciary education account—Account created, purposes. [1983 1st ex.s. c 9 § 1; 1981 c 132 § 7.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

Title 3 DISTRICT COURTS—COURTS OF LIMITED JURISDICTION (Formerly: Justice Courts—Courts of Limited Jurisdiction)

Chapter 3.04 JUSTICES OF THE PEACE (Similar enactment, see chapter 3.34 RCW)

3.04.010 Election of justices of the peace. [1955 c 11 § 1. Prior: 1888 p 120 § 1; 1854 p 222 § 1; RRS § 7544.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.030 Qualifications, terms of office, powers—Disqualification. [1955 c 11 § 2; 1888 p 120 § 4; RRS § 7546.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.040 Eligibility. [1955 c 11 § 3; Code 1881 § 1691; 1854 p 223 § 3; RRS § 7547.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.050 Certificate of election—Oath. [1955 c 11 § 4; Code 1881 § 1692; 1854 p 223 § 4; RRS § 7548.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.060 Official bond. [1955 c 11 § 5; Code 1881 § 1693; 1854 p 223 § 5; RRS § 7549.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.070 Action upon bond. [1955 c 11 § 6; Code 1881 § 1694; 1854 p 223 § 6; RRS § 7550.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.080 Term of office. [1955 c 11 § 7; Code 1881 § 1695; 1854 p 224 § 7; RRS § 7551.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.090 Location of office—Process. [1951 c 156 § 14; Code 1881 § 1707; 1873 p 333 § 14; 1854 p 226 § 20; RRS § 48.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.100 Effect of division of precinct. [Code 1881 § 1703; 1854 p 224 § 10; RRS § 7552.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.110 Docket—Contents. [1955 c 11 § 8; Code 1881 § 1724; 1873 p 339 § 31; 1854 p 227 § 25; RRS § 1770.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.120 Separate docket for small claims department. [1919 c 187 § 12; RRS § 1777–12.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.130 Vacancy—Delivery of records—Completion of business. [1951 c 156 § 15; Code 1881 § 1704; 1854 p 224 § 11; RRS § 7553.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.140 Penalty for default. [Code 1881 § 1705; 1854 p 224 § 12; RRS § 7554.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

3.04.150 Not to office with attorney—Exception. [Code 1881 § 1708; 1873 p 333 § 15; 1854 p 226 § 21; RRS § 49.] Repealed by 1984 c 258 § 80, effective July 1, 1984.

Chapter 3.08 CONSTABLES

3.08.010 Election of constables. [1953 c 237 § 1; Code 1881 § 2796; 1854 p 225 § 13; RRS § 7555.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.020 Conduct of election. [Code 1881 § 2798; 1854 p 225 § 15; RRS § 7557.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.030 Oath. [Code 1881 § 2799; 1854 p 225 § 16; RRS § 7558.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.040 Bond. [1955 c 11 § 9; Code 1881 § 2800; RRS § 7559.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.050 Vacancies. [Code 1881 § 2797; 1854 p 225 § 14; RRS § 7556.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.060 Duties generally. [1955 c 11 § 10. Prior: (i) 1854 p 225 § 18; Code 1881 § 2801; RRS § 7560. (ii) 1869 p 264 § 311; Code 1881 § 2801; RRS § 4173, part.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.065 County commissioners may alter powers and duties. [1953 c 237 § 3.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.070 Limitation of jurisdiction in class A counties. [1941 c 64 § 1; 1935 c 138 § 1; Rem. Supp. 1941 § 7560-1.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

3.08.080 County commissioners may abolish office. [1953 c 237 § 2.] Repealed by 1984 c 258 § 81, effective July 1, 1984.

Chapter 3.12

JUSTICES AND CONSTABLES IN CITIES (Similar enactment, see chapters 3.46 and 3.50 RCW)

3.12.010 Number in cities of not more than five thousand. [1955 c 11 § 11; 1888 p 120 § 3; RRS § 7562.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.021 Number in cities of five thousand or more. [1957 c 203 § 1; 1955 c 11 § 12; 1951 c 156 § 1. Prior: (i) 1888 p 120 § 2; RRS § 7562. (ii) 1897 c 66 § 1; RRS § 7563. (iii) 1899 c 85 § 1; RRS § 7564. (iv) 1905 c 105 § 1; RRS § 7570. (v) 1913 c 41 § 1; 1915 c 110 § 1; RRS § 7565. (vi) 1913 c 41 § 2; RRS § 7566.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.041 Election of justices—Cities of five thousand or more—Term of office. [1951 c 156 § 6.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.051 Increase in justices or constables—Vacancies. [1951 c 156 § 7. Prior: 1913 c 41 § 2; RRS § 7566.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.071 Justices must be attorneys in cities of five thousand or more. [1957 c 203 § 2; 1951 c 156 § 2. Prior: 1913 c 41 § 2; RRS § 7566.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.080 Exchange of service by justices in first class city. [1931 c 63 § 1; RRS § 7565-1.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

3.12.090 Clerks. [1943 c 21 § 1; 1917 c 102 § 1; 1891 c 7 § 8; Rem. Supp. 1943 § 7583.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

Chapter 3.14 JUSTICE COURT DISTRICTS

3.14.020 Election of district justice—Term of office. [1951 c 156 § 10.] Repealed by 1984 c 258 § 82, effective July 1, 1984. Later enactments, see RCW 3.34.020, 3.34.070, and 3.38.031.

3.14.050 County to furnish office and clerical help. [1951 c 156 § 9.] Repealed by 1984 c 258 § 82, effective July 1, 1984. Later enactment, see RCW 3.58.050.

3.14.060 Transfer of pending cases to district justice. [1951 c 156 § 13.] Repealed by 1984 c 258 § 82, effective July 1, 1984.

Chapter 3.16

SALARIES AND FEES

(Similar enactment, see chapters 3.46 and 3.62 RCW)

3.16.002 Justices' salaries—Cities of five to twenty thousand—Private practice. [1953 c 206 § 5; 1951 c 156 § 3.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.004 Justices' salaries—Cities over twenty thousand—Full time—Allocation. [1969 c 52 § 2; 1965 ex.s. c 110 § 6; 1951 c 156 § 4.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.008 Payment of justices' salaries. [1955 c 11 § 13. Prior: 1951 c 156 § 5; 1891 c 7 § 7; RRS § 7582.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.010 Constable salaries—Cities of five thousand to thirty-five thousand. [1955 c 11 § 14; 1897 c 66 § 2; RRS § 7571.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.020 Constable salaries—Cities of thirty-five thousand to one hundred thousand. [1955 c 11 § 15; 1905 c 105 § 3; RRS § 7572.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.030 Constable salaries—Cities of more than one hundred thousand. [1955 c 11 § 16; 1913 c 41 §§ 3, 4; 1909 c 145 § 3; RRS §§ 7567, 7568, 7575.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.050 Payment of salaries. [1955 c 11 § 17. Prior: 1951 c 156 § 5; 1891 c 7 § 7; RRS § 7582.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.060 Travel expense of constables. [1955 c 11 § 18; 1891 c 7 § 9; RRS § 7584.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.070 Fees of nonsalaried justices. [1919 c 143 § 1; 1915 c 138 § 1; 1907 c 121 § 1; 1893 c 66 § 1; RRS § 1864.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.080 Fees before salaried justices. [1893 c 66 § 2; RRS § 1865.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.090 Compensation limited to schedule. [1893 c 66 § 3; RRS § 1866.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.100 Constables' fees. [1959 c 263 § 13; 1907 c 56 § 1, part; RRS § 7561, part.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.110 Payment of fees and fines—Salaried justices and constables—Cities over five thousand. [1969 ex.s. c 199 § 5; 1891 c 7 § 3; RRS § 7578.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.120 Fee books to be kept—Salaried justices and constables—Cities over five thousand. [1891 c 7 § 4; RRS § 7579.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.130 Procedure for remitting fees and fines—Salaried justices and constables—Cities over five thousand. [1969 ex.s. c 199 § 6; 1891 c 7 § 5; RRS § 7580.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.140 Fees payable in advance—Salaried justices and constables—Cities over five thousand. [1891 c 7 § 10; RRS § 7585.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.150 Fees to salary fund—Salaried justices and constables—Cities over five thousand. [1891 c 7 § 6; RRS § 7581.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

3.16.160 Fines and unclaimed fees of nonsalaried justice. [1969 ex.s. c 199 § 7; Code 1881 § 1901; 1863 p 379 § 181; RRS § 7577.] Repealed by 1984 c 258 § 83, effective July 1, 1984.

Chapter 3.20

JURISDICTION AND VENUE

(Similar enactment, see chapters 3.46 through 3.66 RCW)

3.20.010 General powers of justice of the peace. [1941 c 89 § 1; Code 1881 § 1709; 1854 p 226 § 22; Rem. Supp. 1941 § 43.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.020 Civil jurisdiction. [1981 c 331 § 6; 1979 c 102 § 2; 1965 c 96 § 1; 1955 c 11 § 19; 1891 c 73 § 1; 1883 p 44 § 1; Code 1881 § 1710; 1877 p 199 § 1; 1873 p 333 § 17; 1854 p 226 § 23; RRS § 44.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.030 Restrictions on civil jurisdiction. [Code 1881 § 1711; 1873 p 334 § 18; 1854 p 227 § 24; RRS § 45.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.040 Criminal jurisdiction. [1983 1st ex.s. c 46 § 175; 1909 c 98 § 1; 1901 c 35 § 1; Code 1881 § 1886; 1875 p 51 § 1; 1873 p 181 § 184; 1860 p 279 § 171; RRS § 46.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.050 Territorial jurisdiction—General. [1941 c 89 § 2; Code 1881 § 1702; 1854 p 224 § 9; Rem. Supp. 1941 § 47.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.060 Jurisdictional venue in civil actions. [1953 c 206 § 2; 1941 c 89 § 3; 1929 c 75 § 1; 1925 ex.s. c 53 § 1; 1901 c 65 § 1; 1899 c 40 § 1; Rem. Supp. 1941 § 1756.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.070 Dismissal if brought in improper forum—Attorney's fee. [1929 c 75 § 2; 1927 c 264 § 1; RRS § 1756-1.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.080 Fees paid justice without jurisdiction—Disposition. [1929 c 75 § 3; RRS § 1756-2.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.090 Territorial jurisdiction—Civil. [1941 c 89 § 4; 1929 c 75 § 4; 1901 c 65 § 2; Rem. Supp. 1941 § 1757.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.110 Change of venue—General. [Code 1881 § 1881; 1863 p 369 § 162; 1860 p 252 § 68; RRS § 1775.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.115 Removal of certain civil actions to superior court. Cross-reference section, decodified July, 1984.

3.20.120 Restriction on criminal jurisdiction in certain counties. [1935 c 135 § 1; 1933 ex.s. c 4 § 1; RRS § 1925-1.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

3.20.131 Venue in criminal actions. [1953 c 206 § 4.] Repealed by 1984 c 258 § 84, effective July 1, 1984.

Chapter 3.24

NIGHT COURTS

3.24.010 Night courts established. [1923 c 14 § 1; RRS § 7576-1.] Repealed by 1984 c 258 § 85, effective July 1, 1984. See RCW 35.20.020.

3.24.020 Appointment of judge—Vacancy. [1927 c 201 § 1; 1923 c 14 § 2; RRS § 7576-2.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.030 Term of office. [1923 c 14 § 4; RRS § 7576-4.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.040 Salaries—Judges—Court clerk. [1923 c 14 § 5; RRS § 7576-5.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.050 Payment of salary. [1923 c 14 § 6; RRS § 7576-6.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.060 Powers, duties and jurisdiction. [1923 c 14 § 3; RRS § 7576-3.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.070 Transfer of cases to night court. [1923 c 14 § 7; RRS § 7576-7.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.080 Trial fee. [1923 c 14 § 8; RRS § 7576-8.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

3.24.090 Sessions. [1923 c 14 § 9; RRS § 7576-9.] Repealed by 1984 c 258 § 85, effective July 1, 1984.

Chapter 3.28

CONTEMPT

3.28.010 When justice may punish for contempt. [Code 1881 § 1842; 1873 c 171 § 665; 1854 p 248 § 145; RRS § 1891.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.020 Warrant—Hearing. [Code 1881 § 1844; 1873 p 173 § 668; 1854 p 249 § 147; RRS § 1893.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.030 Summary arraignment if offender present. [Code 1881 § 1845; 1873 p 172 § 667; 1854 p 249 § 148; RRS § 1894.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.040 Form of warrant. [Code 1881 § 1846; 1854 p 249 § 149; RRS § 1895.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.050 Form of judgment. [Code 1881 § 1847; 1854 p 249 § 150; RRS § 1896.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.060 Punishment. [Code 1881 § 1843; 1873 p 172 § 166; 1854 p 249 § 146; RRS § 1892.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.28.070 Warrant of commitment. [1969 ex.s. c 199 § 8; Code 1881 § 1848; 1854 p 250 § 151; RRS § 1897.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

Chapter 3.50

MUNICIPAL DEPARTMENTS—ALTERNATE PROVISION

3.50.120 Criminal prosecutions—Complaints. [1961 c 299 § 61.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.130 Complaint to be sworn—Examination—Filing. [1961 c 299 § 62.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.140 When oath to complaint not required—Penalty for false certification. [1961 c 299 § 63.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.150 Amendments to complaint. [1961 c 299 § 64.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.160 Warrant for arrest. [1961 c 299 § 65.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.170 Form and contents of warrant. [1961 c 299 § 66.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.180 Execution of warrant—Procedure. [1961 c 299 § 67.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.190 Return of warrant—Unexecuted warrants. [1961 c 299 § 68.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.200 Arrest with or without warrant. [1961 c 299 § 69.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.210 Bail. [1961 c 299 § 70.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.220 Bail bonds. [1961 c 299 § 71.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.230 Justification of sureties—Approval of bond by judge. [1961 c 299 § 72.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.240 Defendant's rights—Arraignment. [1961 c 299 § 73.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.250 Plea. [1961 c 299 § 74.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.260 Continuances. [1961 c 299 § 75.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.270 Sentence, acquittal. [1961 c 299 § 76.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.280 Jury trials, when allowed—No change of venue or affidavit of prejudice. [1979 ex.s. c 136 § 19; 1961 c 299 § 77.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.290 Sentence to be without delay—New bail. [1961 c 299 § 78.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.310 Conviction of corporation. [1961 c 299 § 80.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.350 Correction of clerical mistakes, errors, etc. [1961 c 299 § 84.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.360 Presence of defendant, counsel. [1961 c 299 § 85.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.370 Review by superior court—Methods—Grounds. [1961 c 299 § 86.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.380 Appeal to superior court—Procedure. [1961 c 299 § 87.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.390 Dismissal of appeal. [1961 c 299 § 88.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.400 Appeal bond—Disposition of bail, exhibits pending appeal. [1961 c 299 § 89.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.410 Superior court trial de novo—Jury trial—Maximum punishment—Appeal to supreme court or court of appeals. [1971 c 81 § 15; 1961 c 299 § 90.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.420 Superior court judgment mailed to municipal court. [1961 c 299 § 91.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.460 Transfer of pending matters, records, furniture, etc., to municipal court. [1961 c 299 § 95.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

3.50.470 Chapter cumulative—Continuation under existing law. [1961 c 299 § 96.] Repealed by 1984 c 258 § 130, effective July 1, 1984.

Chapter 3.62

INCOME OF COURT

3.62.015 Distribution of income percentages—Establishment—Use—Annual review. [1980 c 78 § 129; 1974 ex.s. c 130 § 2; 1969 ex.s. c 199 § 1.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See chapters 3.46 through 3.62 RCW and RCW 43.08.250.

3.62.055 Quarterly calculation for transfers to state funds. [1969 ex.s. c 199 § 4.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

3.62.080 Cost of five dollars in addition to fines and forfeitures to be collected and allocated for judicial information system. [1981 c 330 § 2.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

Chapter 3.74

MISCELLANEOUS

3.74.910 Saving—1961 c 299. [1961 c 299 § 128.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

3.74.920 Effect of act on existing courts, judges, etc. [1961 c 299 § 129.] Repealed by 1984 c 258 § 86, effective July 1, 1984.

Title 4

CIVIL PROCEDURE

Chapter 4.04

RULE OF DECISION—FORM OF ACTIONS

4.04.020 Only one form of action—Civil action. [Code 1881 § 2; 1877 p 3 § 2; 1871 p 3 § 1; 1860 p 5 § 1; 1854 p 131 § 1; RRS § 153.] Repealed by 1984 c 76 § 7.

4.04.030 Designation of parties. [Code 1881 § 3; 1877 p 3 § 4; 1854 p 131 § 2; RRS § 154.] Repealed by 1984 c 76 § 7.

Chapter 4.08

PARTIES TO ACTIONS

4.08.020 Certain fiduciaries may sue in own name. [Code 1881 § 5; 1877 p 4 § 5; 1869 p 4 § 5; 1854 p 131 § 4; RRS § 180.] Repealed by 1984 c 76 § 8.

4.08.090 Actions against persons severally liable on obligation. [Code 1881 § 16; 1877 p 6 § 16; 1854 p 132 § 10; RRS § 192.] Repealed by 1984 c 76 § 8.

4.08.130 New parties may be brought in. [Code 1881 § 20; 1877 p 6 § 20; 1869 p 6 § 20; RRS § 196.] Repealed by 1984 c 76 § 8.

4.08.190 Intervention. [Code 1881 § 23; 1877 p 7 § 23; RRS § 202.] Repealed by 1984 c 76 § 8.

Chapter 4.16

LIMITATION OF ACTIONS

4.16.010 Commencement of actions limited—Objections, how taken. [1891 c 51 § 1; 1885 p 74 § 1; Code 1881 § 25; 1873 p 8 § 25; 1869 p 8 § 25; 1863 p 85 § 16; 1860 p 289 § 1; 1854 p 362 § 1; RRS § 155.] Repealed by 1984 c 76 § 9.

Chapter 4.28

COMMENCEMENT OF ACTIONS

4.28.010 Civil actions, how commenced. [1971 ex.s. c 131 § 2; 1895 c 86 § 1; 1893 c 127 § 1; RRS § 220.] Repealed by 1984 c 76 § 10.

4.28.030 Requisites of summons. [1893 c 127 § 2; RRS § 221.] Repealed by 1984 c 76 § 10.

4.28.040 Contents of summons. [1893 c 127 § 3; RRS § 222.] Repealed by 1984 c 76 § 10.

4.28.050 Form of summons. [1893 c 127 § 4; RRS § 223.] Repealed by 1984 c 76 § 10.

4.28.060 Complaint must accompany summons, when. [1893 c 127 § 5; RRS § 224.] Repealed by 1984 c 76 § 10.

4.28.070 Who may serve summons. [1971 ex.s. c 292 § 4; 1893 c 127 § 6; RRS § 225.] Repealed by 1984 c 76 § 10.

4.28.130 Process against unknown heirs. [1903 c 144 § 1; RRS § 229.] Repealed by 1984 c 76 § 10.

4.28.190 Service on joint defendants—Procedure after service. [1893 c 127 § 13; RRS § 236.] Repealed by 1984 c 76 § 10.

4.28.220 Notice—Time of service—Requisites. [1897 c 95 § 1; Code 1881 § 2140; RRS § 242.] Repealed by 1984 c 76 § 10.

4.28.230 Notices, upon whom served. [1893 c 127 § 18; RRS § 244.] Repealed by 1984 c 76 § 10.

4.28.240 Manner of serving notice. [1893 c 127 § 19; RRS § 245.] Repealed by 1984 c 76 § 10.

4.28.250 Service by mail. [1893 c 127 § 20; RRS § 246.] Repealed by 1984 c 76 § 10.

4.28.260 Service by mail, how made. [1893 c 127 § 21; RRS § 247.] Repealed by 1984 c 76 § 10.

4.28.270 Service where no attorney appears. [1893 c 127 § 22; RRS § 248.] Repealed by 1984 c 76 § 10.

4.28.280 Provisions as to notice not applicable to summons, process, etc. [1893 c 127 § 23; RRS § 249.] Repealed by 1984 c 76 § 10.

4.28.300 Service of papers by telegraph. [Code 1881 § 2358; 1866 p 69 § 17; RRS § 254.] Repealed by 1984 c 76 § 10.

4.28.310 Proof of service, how made. [1893 c 127 § 14; RRS § 237.] Repealed by 1984 c 76 § 10.

Chapter 4.32

PLEADINGS

4.32.010 Rules to determine sufficiency. [Code 1881 § 73; 1877 p 17 § 73; 1869 p 17 § 71; 1854 p 138 § 36; RRS § 255.] Repealed by 1984 c 76 § 11.

4.32.020 Pleadings specified. [Code 1881 § 74; 1877 p 17 § 74; 1869 p 20 § 72; 1854 p 139 § 37; RRS § 256.] Repealed by 1984 c 76 § 11.

4.32.030 Complaint. [Code 1881 § 75; 1877 p 17 § 75; 1854 p 139 § 38; RRS § 257.] Repealed by 1984 c 76 § 11.

4.32.050 Demurrer, grounds of. [1891 c 62 § 2; 1886 p 75 § 1; Code 1881 § 77; 1854 p 139 § 40.] Repealed by 1984 c 76 § 11.

4.32.060 Grounds of demurrer, how specified. [Code 1881 § 78; 1877 p 18 § 78; 1854 p 139 § 41; RRS § 260.] Repealed by 1984 c 76 § 11.

4.32.080 Requisites of answer. [Code 1881 § 82; 1877 p 18 § 82; 1854 p 139 § 44; RRS § 264.] Repealed by 1984 c 76 § 11.

4.32.090 Defenses and counterclaims. [Code 1881 § 83, part; 1877 p 19 § 83, part; 1869 p 21 § 81, part; 1854 p 140 § 45; RRS § 273.] Repealed by 1984 c 76 § 11.

4.32.100 Counterclaim defined. [Code 1881 § 83, part; 1877 p 19 § 83, part; 1869 p 21 § 81, part; RRS § 265.] Repealed by 1984 c 76 § 11.

4.32.110 Setoff, when allowed. [Code 1881 § 497; 1877 p 107 § 501; RRS § 266.] Repealed by 1984 c 76 § 11.

4.32.160 Procedure when complaint is amended. [Code 1881 § 80; 1877 p 18 § 80; 1869 p 20 § 78; RRS § 262.] Repealed by 1984 c 76 § 11.

4.32.180 Defendant may demur and answer. [Code 1881 § 84; 1877 p 19 § 84; 1854 p 140 § 46; RRS § 274.] Repealed by 1984 c 76 § 11.

4.32.190 Objections not taken deemed waived—Exceptions. [Code 1881 § 81; 1877 p 18 § 81; 1854 p 139 § 43; RRS § 263.] Repealed by 1984 c 76 § 11.

4.32.200 Demurrer to answer. [Code 1881 § 87; 1877 p 19 § 87; 1869 p 22 § 85; 1854 p 140 § 48; RRS § 276.] Repealed by 1984 c 76 § 11.

4.32.210 Reply. [Code 1881 § 86; 1877 p 19 § 86; 1869 p 22 § 84; 1854 p 140 § 48, part; RRS § 277.] Repealed by 1984 c 76 § 11.

4.32.220 Demurrer or motion to reply. [Code 1881 § 89; 1877 p 20 § 89; 1869 p 22 § 87; 1854 p 140 § 50; RRS § 279.] Repealed by 1984 c 76 § 11.

4.32.240 Amendments. [1891 c 62 § 3; Code 1881 § 109; 1875 p 11 § 20; 1854 p 144 § 69; RRS § 303.] Repealed by 1984 c 76 § 11.

4.32.260 Time for filing pleadings. [1893 c 127 § 37; RRS § 321.] Repealed by 1984 c 76 § 11.

Chapter 4.36

GENERAL RULES OF PLEADING

4.36.010 Subscription and verification. [1888 p 29 § 1; Code 1881 § 91; 1869 p 23 § 89; 1867 p 92 § 1; 1854 p 141 §§ 53, 54; RRS § 281.] Repealed by 1984 c 76 § 12.

4.36.020 Verification by public corporations. [Code 1881 § 663; 1877 p 137 § 666; 1869 p 154 § 603; RRS § 952.] Repealed by 1984 c 76 § 12.

4.36.030 When verification may be omitted. [Code 1881 § 92; 1877 p 20 § 92; 1869 p 23 § 90; 1854 p 141 § 54; RRS § 282.] Repealed by 1984 c 76 § 12.

4.36.040 Pleading written instruments or accounts—Bill of particulars. [Code 1881 § 93; 1877 p 21 § 93; 1854 p 142 § 55; RRS § 284.] Repealed by 1984 c 76 § 12.

4.36.050 Pleadings liberally construed. [Code 1881 § 94; 1877 p 21 § 94; 1854 p 143 § 56; RRS § 285.] Repealed by 1984 c 76 § 12.

4.36.060 Irrelevant, redundant and indefinite matter. [Code 1881 § 95; 1877 p 21 § 95; 1854 p 142 § 57; RRS § 286.] Repealed by 1984 c 76 § 12.

4.36.090 Private statutes, how pleaded. [Code 1881 § 98; 1877 p 21 § 98; 1854 p 142 § 60; RRS § 289.] Repealed by 1984 c 76 § 12.

4.36.100 Existence of city or town, how pleaded. [Code 1881 § 2063; RRS § 290.] Repealed by 1984 c 76 § 12.

4.36.110 Ordinances, how pleaded. [Code 1881 § 2064; RRS § 291.] Repealed by 1984 c 76 § 12.

4.36.150 Joinder of causes of action. [1907 c 92 § 1; Code 1881 § 102; 1869 p 25 § 100; 1861 p 51 § 5; 1854 p 143 § 64; RRS § 296.] Repealed by 1984 c 76 § 12.

4.36.160 Uncontroverted allegations, effect of. [Code 1881 § 103; 1877 p 22 § 103; 1869 p 26 § 101; RRS § 297.] Repealed by 1984 c 76 § 12.

4.36.190 Effect of immaterial variance. [Code 1881 § 106; 1877 p 23 § 106; 1854 p 144 § 67; RRS § 300.] Repealed by 1984 c 76 § 12.

4.36.220 Informal pleadings stricken—Amendment—Pleading over. [Code 1881 § 111; 1877 p 24 § 111; 1869 p 27 § 109; RRS § 305.] Repealed by 1984 c 76 § 12.

4.36.230 Defendant may be fictitiously designated, when. [Code 1881 § 112; 1877 p 24 § 112; 1869 p 28 § 110; 1854 p 144 § 70; RRS § 306.] Repealed by 1984 c 76 § 12.

4.36.250 Supplemental pleadings. [Code 1881 § 114; 1877 p 24 § 114; 1854 p 144 § 72; RRS § 308.] Repealed by 1984 c 76 § 12.

Chapter 4.40

ISSUES

4.40.020 Issue of law. [1893 c 127 § 29; Code 1881 § 201; 1877 p 42 § 205; 1854 p 163 § 180; RRS § 310.] Repealed by 1984 c 76 § 13.

4.40.030 Issue of fact—Issues of law and fact in same action. [1893 c 127 § 30; Code 1881 §§ 202, 203; 1877 p 42 §§ 206, 207; 1854 p 163 §§ 181, 182; RRS § 311. Formerly RCW 4.40.030 and 4.40.040.] Repealed by 1984 c 76 § 13.

Chapter 4.44

TRIAL

4.44.010 Trial defined. [1893 c 127 § 31; RRS § 312.] Repealed by 1984 c 76 § 14.

4.44.040 Motion for continuance. [Code 1881 § 205; 1877 p 43 § 209; 1869 p 50 § 209; 1854 p 164 § 184; RRS § 322.] Repealed by 1984 c 76 § 14.

4.44.100 Jury trial—Number—Fee—Waiver. [1972 ex.s. c 57 § 2; 1961 c 304 § 2; 1909 c 205 § 1; 1903 c 43 § 1; RRS § 316. FORMER PART OF SECTION: Code 1881 § 248 now in RCW 4.48.010.] Repealed by 1984 c 76 § 15.

4.44.320 Additional instructions. [1891 c 60 § 1; Code 1881 § 232; 1877 p 48 § 236; 1869 p 57 § 236; 1854 p 166 § 196; RRS § 352.] Repealed by 1984 c 76 § 14.

Chapter 4.56

JUDGMENTS—GENERALLY

4.56.010 Judgment defined. [Code 1881 § 283; 1877 p 57 § 287; 1869 p 69 § 285; 1854 p 171 § 220; RRS § 404.] Repealed by 1984 c 76 § 15.

4.56.030 Judgment for or against any of the parties. [Code 1881 § 284; 1877 p 58 § 289; 1869 p 69 § 286; 1854 p 171 § 221; RRS § 406.] Repealed by 1984 c 76 § 15.

4.56.040 Judgment may be against one or more defendants. [Code 1881 § 285; 1877 p 58 § 288; 1869 p 69 § 287; 1854 p 171 § 222; RRS § 407.] Repealed by 1984 c 76 § 15.

4.56.160 Judgment by default. [Code 1881 § 289; 1877 p 59 § 293; 1869 p 70 § 291; 1854 p 171 § 225; RRS § 411.] Repealed by 1984 c 76 § 15.

4.56.170 Setting aside default. [Code 1881 § 290; 1877 p 60 § 294; 1869 p 72 § 292; 1854 p 171 § 225, subd. 4; RRS § 412.] Repealed by 1984 c 76 § 15.

4.56.180 Judgment on the pleadings for failure to plead to new matter. [Code 1881 § 88; 1877 p 19 § 88; 1869 p 22 § 86; 1854 p 140 § 49; RRS § 278.] Repealed by 1984 c 76 § 15.

Chapter 4.64

ENTRY OF JUDGMENTS

4.64.010 Time of entering judgment—Motions—Filing—Recording. [1984 c 128 § 5; 1921 c 65 § 1; RRS § 431. Prior: 1903 c 148 § 1; 1891 c 38 § 1; Code 1881 § 30; 1877 p 62 § 305; 1869 p 74 § 303; 1854 p 173 § 229.] Repealed by 1984 c 76 § 16.

Reviser's note: RCW 4.64.010 was both amended and repealed during the 1984 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

Chapter 4.72

VACATION AND MODIFICATION OF JUDGMENTS

4.72.040 Procedure. [1891 c 27 § 3; Code 1881 § 440; 1877 p 97 § 442; 1875 p 22 § 5; RRS § 468.] Repealed by 1984 c 76 § 16.

Chapter 4.80

EXCEPTIONS

4.80.050 Review on appeal. [1971 c 81 § 20; 1893 c 60 § 7; RRS § 387.] Repealed by 1984 c 76 § 16.

Chapter 4.84

COSTS

4.84.310 Attorneys' fees as costs in damage actions of five thousand dollars or less—Assigned claims. [1973 c 84 § 7.] Repealed by 1984 c 258 § 93, effective July 1, 1984.

Title 7

SPECIAL PROCEEDINGS AND ACTIONS

Chapter 7.24

UNIFORM DECLARATORY JUDGMENTS ACT

7.24.040 Rights of persons interested in estates, trusts, etc. [1935 c 113 § 4; RRS § 784-4.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

Title 9

CRIMES AND PUNISHMENTS

(See also Washington Criminal Code, Title 9A RCW)

Chapter 9.04

ADVERTISING, CRIMES RELATING TO

9.04.020 Advertising divorce business. [1917 c 100 § 1; 1909 c 249 § 211; RRS § 2463.] Repealed by 1984 c 258 § 87, effective July 1, 1984.

Chapter 9.46

GAMBLING—1973 ACT

9.46.115 Special tax on coin-operated gambling devices—Amount—Payment—Civil action to collect—Rules for collection and administration—Disposition of proceeds—Violation, penalty. [1981 c 139 § 9; 1977 ex.s. c 326 § 6; 1975-'76 2nd ex.s. c 87 § 1.] Repealed by 1984 c 135 § 1, effective July 1, 1984.

Chapter 9.68A

SEXUAL EXPLOITATION OF CHILDREN

(Formerly: Child pornography)

9.68A.010 Definitions. [1980 c 53 § 1.] Repealed by 1984 c 262 § 13.

9.68A.020 Employing, using, etc., or permitting minor to engage in sexually explicit conduct for commercial use—Class B felony—Defense. [1980 c 53 § 2.] Repealed by 1984 c 262 § 13.

9.68A.030 Sending, bringing into state, possessing, publishing, printing, etc., obscene matter involving minor engaged in sexually explicit conduct—Class C felony. [1980 c 53 § 3.] Repealed by 1984 c 262 § 13.

9.68A.900 Severability—1980 c 53. [1980 c 53 § 5.] Repealed by 1984 c 262 § 13.

Chapter 9.94A

SENTENCING REFORM ACT OF 1981

9.94A.900 Construction—Chapter 71.06 RCW not affected. [1981 c 137 § 27.] Repealed by 1984 c 209 § 32, effective June 30, 1984.

Title 9A

WASHINGTON CRIMINAL CODE

(See also Crimes and Punishments, Title 9 RCW)

Chapter 9A.40

KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

9A.40.050 Custodial interference. [1975 1st ex.s. c 260 § 9A.40-.050.] Repealed by 1984 c 95 § 7.

Chapter 9A.44

SEXUAL OFFENSES

9A.44.110 Communication with a minor for immoral purposes. [1975 1st ex.s. c 260 § 9A.88.020. Formerly RCW 9A.88.020.] Repealed by 1984 c 262 § 13.

Title 10

CRIMINAL PROCEDURE

Chapter 10.01

GENERAL PROVISIONS

10.01.080 Corporations—Appearance by—Presence in court presumed. [1911 c 29 § 2; RRS § 2011-2.] Repealed by 1984 c 76 § 20.

10.01.110 Counsel—Right to—Fees. [1965 c 133 § 1; 1941 c 151 § 1; 1909 c 249 § 53; Rem. Supp. 1941 § 2305.] Repealed by 1984 c 76 § 20.

Chapter 10.04

JUSTICE COURT PROCEDURE—GENERALLY

10.04.010 Arrest—Issuance of warrant for. [Code 1881 § 1888; 1873 p 382 § 185; 1854 p 260 § 172; RRS § 1925.] Repealed by 1984 c 76 § 21.

10.04.030 Hearing—Judgment. [Code 1881 § 1889, part; 1873 p 382 § 186; 1854 p 260 § 174; RRS § 1926, part.] Repealed by 1984 c 76 § 21.

Chapter 10.16

PRELIMINARY HEARINGS

10.16.010 Complaint—Arrest—Witnesses. [Code 1881 § 1921; 1873 p 392 § 219; 1854 p 106 § 27; RRS § 1949. Formerly RCW 10.16.010 and 10.16.020.] Repealed by 1984 c 76 § 22.

10.16.030 Recognizance—With or without examination. [1891 c 11 § 11; Code 1881 § 1923; 1873 p 394 § 221; 1854 p 107 § 29; RRS § 1951.] Repealed by 1984 c 76 § 22.

10.16.040 Hearing—Adjournments. [Code 1881 § 1924; 1873 p 394 § 222; 1854 p 107 § 30; RRS § 1952.] Repealed by 1984 c 76 § 22.

10.16.070 Bailable offense—Recognizance conditions. [1891 c 11 § 13; Code 1881 § 1927; 1873 p 395 § 225; 1854 p 108 § 33; RRS § 1957. Formerly RCW 10.16.070, 10.19.030 and 10.19.040, part.] Repealed by 1984 c 76 § 22.

10.16.140 Witnesses—Recognizances—Superior court appearances. [1891 c 11 § 14; Code 1881 § 1929; 1873 p 396 § 228; 1854 p 108 § 36; RRS § 1959. FORMER PART OF SECTION: Code 1881 § 1930; 1854 p 108 § 37; RRS § 1960, now codified as RCW 10.16-.145.] Repealed by 1984 c 76 § 22.

10.16.190 Action on forfeiture of recognizance. [Code 1881 § 1936; 1873 p 397 § 235; 1863 p 390 § 216; 1859 p 141 § 185; 1854 p 109 § 43; RRS § 1965. Formerly RCW 10.19.110, part.] Repealed by 1984 c 76 § 22.

Chapter 10.19

BAIL AND APPEARANCE BONDS

10.19.010 Bail, when allowable. [1909 c 249 § 58; RRS § 2310. Prior: Code 1881 § 778; 1873 p 181 § 8; 1869 p 199 § 8; 1859 p 105 § 8; 1854 p 76 § 8.] Repealed by 1984 c 76 § 23.

10.19.020 Amount of bail—How fixed. [1891 c 28 § 42; Code 1881 § 1028; 1873 p 229 § 208; 1854 p 113 § 72; RRS § 2079. FORMER PART OF SECTION: 1890 p 101 § 5; RRS § 2052, now codified as RCW 10.19.025.] Repealed by 1984 c 76 § 23.

10.19.025 Commitment or recognizance of defendant held to answer to information or indictment. [1890 p 101 § 5; RRS § 2052. Formerly codified in RCW 10.19.020.] Repealed by 1984 c 76 § 23.

10.19.050 Bail must justify. [Code 1881 § 1169; 1854 p 129 § 178; RRS § 1956.] Repealed by 1984 c 76 § 23.

10.19.070 Cash bail. [Code 1881 § 1036; 1873 p 230 § 216; 1854 p 114 § 80; RRS § 2089.] Repealed by 1984 c 76 § 23.

10.19.080 Forfeiture of bail—When entered. [Code 1881 § 1037; 1873 p 230 § 217; 1854 p 114 § 81; RRS § 2090.] Repealed by 1984 c 76 § 23.

Chapter 10.25

JURISDICTION AND VENUE

10.25.010 Criminal actions—Where commenced. [1891 c 28 § 4; Code 1881 § 780; 1879 p 75 § 10; RRS § 2012.] Repealed by 1984 c 76 § 24.

10.25.020 Offenses committed in two or more counties. [Code 1881 § 959; 1854 p 99 § 129; RRS § 2013.] Repealed by 1984 c 76 § 24.

10.25.030 Offenses committed on county boundaries. [1891 c 28 § 5; Code 1881 § 960; 1854 p 99 § 130; RRS § 2014.] Repealed by 1984 c 76 § 24.

10.25.040 When stolen property is taken into another county. [Code 1881 § 961; 1854 p 99 § 131; RRS § 2015.] Repealed by 1984 c 76 § 24.

10.25.050 Homicide in one county—Death in another. [Code 1881 § 962; 1854 p 99 § 132; RRS § 2016.] Repealed by 1984 c 76 § 24.

10.25.060 Accessory after the fact. [1891 c 28 § 6; Code 1881 § 958; RRS § 2017.] Repealed by 1984 c 76 § 24.

10.25.080 Change of venue order—Transcript. [1891 c 28 § 8; Code 1881 § 1073; 1854 p 117 § 99; RRS § 2019.] Repealed by 1984 c 76 § 24.

10.25.090 Change of venue—Consent of parties. [Code 1881 § 1075; 1873 p 235 § 237; RRS § 2020.] Repealed by 1984 c 76 § 24.

10.25.100 Change of venue—Bonds for appearance of witnesses and defendant. [1891 c 28 § 9; Code 1881 § 1076; 1854 p 117 § 100; RRS § 2021.] Repealed by 1984 c 76 § 24.

10.25.110 Venue corrected after trial commenced. [1891 c 28 § 72; Code 1881 § 1094; 1873 p 238 § 255; 1854 p 120 § 119; RRS § 2164.] Repealed by 1984 c 76 § 24.

Chapter 10.31

WARRANTS AND ARRESTS

10.31.010 When warrant to issue. [1891 c 28 § 41; Code 1881 § 1026; 1873 p 228 § 206; 1854 p 113 § 70; RRS § 2077.] Repealed by 1984 c 76 § 25.

10.31.020 Service—By whom. [1929 c 39 § 1; Code 1881 § 1027, part; 1873 p 228 § 207; 1860 p 146 § 214; 1854 p 113 § 71; RRS § 2080.] Repealed by 1984 c 76 § 25.

Chapter 10.37

ACCUSATIONS AND THEIR REQUISITES

10.37.020 Indictment or information—Time for filing. [1909 c 249 § 59; Code 1881 § 771; RRS § 2311.] Repealed by 1984 c 76 § 26.

10.37.025 First pleading—Information or indictment. [1891 c 28 § 19; Code 1881 § 1003; 1873 p 224 § 186; 1869 p 240 § 181; RRS § 2054. Formerly RCW 10.37.010, part.] Repealed by 1984 c 76 § 26.

10.37.026 Prosecutions may be by information. [1909 c 87 § 1; 1891 c 117 § 1; 1890 p 100 § 1; RRS 2024. Formerly RCW 10.37.010, part.] Repealed by 1984 c 76 § 26.

10.37.030 Filing—Informations—Lists of witnesses. [1925 ex.s. c 150 § 2; 1890 p 101 § 2; RRS § 2050. Formerly RCW 10.37.030, part and 10.52.010. FORMER PART OF SECTION: 1891 c 28 § 18; RRS § 2051, now codified as RCW 10.37.035.] Repealed by 1984 c 76 § 26.

10.37.033 Disclosure of alibi may be required—Bill of particulars—Witnesses. [1970 ex.s. c 49 § 7.] Repealed by 1984 c 76 § 26.

10.37.035 Verification of informations. [1891 c 28 § 18; RRS § 2051. Formerly RCW 10.37.030, part.] Repealed by 1984 c 76 § 26.

10.37.180 Time of offense—Description. [1891 c 28 § 25; Code 1881 § 1009; 1873 p 225 § 192; 1869 p 241 § 187; RRS § 2060.] Repealed by 1984 c 76 § 26.

Chapter 10.40

ARRAIGNMENT

10.40.010 Time of. [1891 c 28 § 46; RRS § 2093.] Repealed by 1984 c 76 § 27.

10.40.020 Appearance by counsel only. [1891 c 28 § 47; Code 1881 § 1066; 1873 p 232 § 228; 1854 p 116 § 92; RRS § 2094.] Repealed by 1984 c 76 § 27.

10.40.030 Counsel assigned to indigents. [Code 1881 § 1063; 1873 p 232 § 225; 1860 p 149 § 232; 1855 p 116 § 89; 1854 p 116 § 89; RRS § 2095.] Repealed by 1984 c 76 § 27.

10.40.040 Accused to declare his true name. [1891 c 28 § 48; Code 1881 § 1064; 1873 p 232 § 226; 1869 p 248 § 21; 1854 p 116 § 90; RRS § 2096.] Repealed by 1984 c 76 § 27.

10.40.080 Motion to set aside information. [1957 c 10 § 2; 1891 c 28 § 51; RRS § 2101.] Repealed by 1984 c 76 § 27.

10.40.130 Resubmission. [1891 c 28 § 53; Code 1881 § 1049; RRS § 2103.] Repealed by 1984 c 76 § 27.

10.40.150 Pleas permitted. [1891 c 28 § 57; Code 1881 § 1054; RRS § 2108.] Repealed by 1984 c 76 § 27.

10.40.160 Pleas—Form of entry. [1891 c 28 § 58; Code 1881 § 1055; RRS § 2109.] Repealed by 1984 c 76 § 27.

10.40.175 Substitution for plea of guilty. [Code 1881 § 1057; RRS § 2111. Formerly RCW 10.40.170, part.] Repealed by 1984 c 76 § 27.

Chapter 10.46

SUPERIOR COURT TRIAL

10.46.010 Trial within sixty days. [1909 c 249 § 60; Code 1881 § 772; RRS § 2312.] Repealed by 1984 c 76 § 29.

10.46.040 Defendants charged with felony—Copy of indictment. [1891 c 28 § 45; Code 1881 § 1039; 1873 p 230 § 219; 1854 p 115 § 83; RRS § 2092.] Repealed by 1984 c 76 § 29.

10.46.050 Defendant's right to counsel, compulsory process for witnesses. [1909 c 249 § 55; RRS § 2307. Prior: 1891 c 28 § 90; Code 1881 § 766; 1877 p 205 § 2.] Repealed by 1984 c 76 § 29.

10.46.090 Nolle prosequi. [1909 c 249 § 62; Code 1881 § 775; RRS § 2314.] Repealed by 1984 c 76 § 29.

10.46.100 Separate trials. [1919 c 16 § 1; 1891 c 28 § 71; Code 1881 § 1091; 1873 p 237 § 252; 1854 p 120 § 116; RRS § 2161.] Repealed by 1984 c 76 § 29.

10.46.120 Personal presence of defendant. [Code 1881 § 1086; 1873 p 237 § 247; 1854 p 119 § 109; RRS § 2145.] Repealed by 1984 c 76 § 29.

10.46.130 Trials permissible in defendant's absence. [Code 1881 § 1087; 1873 p 237 § 248; 1854 p 119 § 110; RRS § 2146.] Repealed by 1984 c 76 § 29.

10.46.170 Mistake in charge--Holding defendant. [Code 1881 § 1093; 1873 p 238 § 254; 1854 p 120 § 118; RRS § 2163.] Repealed by 1984 c 76 § 29.

10.46.180 Mistake in charge or venue--Discharge of jury. [1891 c 28 § 73; Code 1881 § 1095; 1873 p 238 § 256; 1854 p 120 § 120; RRS § 2165.] Repealed by 1984 c 76 § 29.

Chapter 10.49 TRIAL JURIES

10.49.020 Jury--Number--How selected. [1891 c 28 § 66; Code 1881 § 1078; 1873 p 236 § 239; 1854 p 118 § 101; RRS § 2137. Formerly RCW 10.46.070, part and 10.49.020.] Repealed by 1984 c 76 § 30.

10.49.030 Challenge to the panel. [Code 1881 § 1081; 1873 p 236 § 242; 1854 p 118 § 104; RRS § 2140.] Repealed by 1984 c 76 § 30.

10.49.040 Challenges for cause. [Code 1881 § 1082; 1873 p 236 § 243; 1854 p 119 § 105; RRS § 2141.] Repealed by 1984 c 76 § 30.

10.49.050 Challenge for cause--Capital case--Conscientious scruples. [1891 c 28 § 67; Code 1881 § 1083; 1873 p 234 § 244; 1854 p 119 § 106; RRS § 2142.] Repealed by 1984 c 76 § 30.

10.49.060 Peremptory challenges. [1969 ex.s. c 41 § 1; 1923 c 25 § 1; Code 1881 § 1079; 1854 p 118 § 102; RRS § 2138.] Repealed by 1984 c 76 § 30.

10.49.070 Alternate jurors. [1917 c 37 § 1; RRS § 2137-1. Formerly RCW 10.49.070, 10.49.080 and 10.49.090.] Repealed by 1984 c 76 § 30.

10.49.100 Oath to jury. [1891 c 28 § 68; Code 1881 § 1084; 1873 p 236 § 245; 1854 p 119 § 107; RRS § 2143.] Repealed by 1984 c 76 § 30.

10.49.110 Custody of jury. [Code 1881 § 1089; 1873 p 237 § 250; 1854 p 119 § 114; RRS § 2159.] Repealed by 1984 c 76 § 30.

Chapter 10.52 WITNESSES--GENERALLY

10.52.030 Convict as witness. [1909 c 249 § 38; RRS § 2290.] Repealed by 1984 c 76 § 31.

Chapter 10.61 VERDICTS

10.61.030 Verdict when several are accused. [1891 c 28 § 77; Code 1881 § 1099; 1873 p 239 § 260; 1854 p 120 § 124; RRS § 2169. FORMER PART OF SECTION: 1891 c 28 § 37; Code 1881 § 1022; 1869 p 243 § 200; RRS § 2073, now codified as RCW 10.61.035.] Repealed by 1984 c 76 § 32.

10.61.040 Rendition of verdict. [1891 c 28 § 80; Code 1881 § 1102; 1873 p 239 § 263; 1854 p 121 § 127; RRS § 2171.] Repealed by 1984 c 76 § 32.

10.61.050 Form of verdict--Court to fix fine and punishment. [Code 1881 § 1103; 1873 p 239 § 264; 1865 p 101 § 1; 1854 p 121 § 128; RRS § 2172. Formerly RCW 10.61.050 and 10.64.050.] Repealed by 1984 c 76 § 32.

Chapter 10.64 JUDGMENTS AND SENTENCES

10.64.010 Pronouncing judgment. [Code 1881 § 1114; 1873 p 241 § 272; 1854 p 123 § 136; RRS § 2190. FORMER PART OF SECTION: Code 1881 § 1104; 1873 p 241 § 272; 1854 p 121 § 129; RRS

§ 2187, now codified as RCW 10.64.015.] Repealed by 1984 c 76 § 33.

10.64.020 Presence of defendant--When necessary. [Code 1881 § 1115; 1873 p 241 § 273; 1854 p 123 § 137; RRS § 2196.] Repealed by 1984 c 76 § 33.

10.64.030 Defendant not present--Arrest. [Code 1881 § 1116; 1873 p 241 § 274; 1854 p 123 § 138; RRS § 2197. FORMER PART OF SECTION: Code 1881 § 1118; 1873 p 242 § 276; 1854 p 123 § 140; RRS § 2199, now codified as RCW 10.64.035.] Repealed by 1984 c 76 § 33.

10.64.035 Defendant discharged on bail--Absence--Forfeiture--Arrest. [Code 1881 § 1118; 1873 p 242 § 276; 1854 p 123 § 140; RRS § 2199. Formerly RCW 10.64.030, part.] Repealed by 1984 c 76 § 33.

10.64.040 Defendant to be informed of verdict. [Code 1881 § 1117; 1873 p 242 § 275; 1854 p 123 § 139; RRS § 2198.] Repealed by 1984 c 76 § 33.

10.64.090 Discharge of defendant and bail upon dismissal. [1909 c 249 § 61; Code 1881 § 774; RRS § 2313.] Repealed by 1984 c 76 § 33.

Chapter 10.67 NEW TRIALS

10.67.010 Time for making--Grounds. [1925 ex.s. c 150 § 5; 1891 c 28 § 81; Code 1881 § 1105; 1873 p 240 § 266; 1854 p 121 § 130; RRS § 2181. Formerly RCW 10.67.010 and 10.67.020.] Repealed by 1984 c 76 § 34.

10.67.030 New trial--When application must be supported by affidavit. [Code 1881 § 1106; 1873 p 240 § 267; 1854 p 122 § 131; RRS § 2182.] Repealed by 1984 c 76 § 34.

Chapter 10.79 SEARCHES AND SEIZURES

10.79.010 Issuance of warrant for stolen property, etc. [Code 1881 § 967; 1873 p 216 § 153; 1854 p 100 § 1; RRS § 2237. FORMER PART OF SECTION: 1949 c 86 § 1; Code 1881 § 968; 1873 p 216 § 154; 1854 p 100 § 2; Rem. Supp. 1949 § 2238, now codified as RCW 10.79.015.] Repealed by 1984 c 76 § 35.

10.79.030 Execution of warrant--Disposition of property. [1949 c 86 § 2; Code 1881 § 970; 1873 p 217 § 156; 1854 p 101 § 4; Rem. Supp. 1949 § 2240.] Repealed by 1984 c 76 § 35.

Title 11 PROBATE LAW AND PROCEDURE--1965 ACT

Chapter 11.02 GENERAL PROVISIONS

11.02.010 Jurisdiction in probate matters--Powers of courts. [1984 c 149 § 41; 1965 c 145 § 11.02.010. Prior: 1917 c 156 § 1; RRS § 1371; prior: 1891 c 155 § 1; Code 1881 § 1299; 1873 p 253 § 3; 1863 p 199 § 3; 1860 p 167 § 3; 1854 p 309 § 3. Formerly RCW 11.16.010.] Recodified as RCW 11.96.009 pursuant to 1984 c 149 § 40, effective January 1, 1985.

11.02.020 Powers of courts when law inapplicable, insufficient, or doubtful. [1984 c 149 § 42; 1965 c 145 § 11.02.020. Prior: 1917 c 156 § 219; RRS § 1589. Formerly RCW 11.16.020.] Recodified as RCW 11.96.020 pursuant to 1984 c 149 § 40, effective January 1, 1985.

11.02.030 Exercise of powers--Orders, writs, process, etc. [1965 c 145 § 11.02.030. Prior: 1917 c 156 § 220; RRS § 1590. Formerly RCW 11.16.030.] Recodified as RCW 11.96.030 pursuant to 1984 c 149 § 43, effective January 1, 1985.

11.02.060 Power of clerk to fix dates of hearings. [1984 c 149 § 51; 1965 c 145 § 11.02.060. Prior: 1947 c 54 § 1; Rem. Supp. 1947 § 1590-a. Formerly RCW 11.16.110.] Recodified as RCW 11.96.090 pursuant to 1984 c 149 § 50, effective January 1, 1985.

Chapter 11.16

JURISDICTION--VENUE--NOTICES

11.16.050 Venue. [1967 c 168 § 4; 1965 c 145 § 11.16.050. Prior: 1917 c 156 § 6; RRS § 1376; prior: Code 1881 § 1340; 1863 p 210 § 76; 1860 p 173 § 43.] Repealed by 1984 c 149 § 178, effective January 1, 1985. Later enactment, see RCW 11.96.050.

Chapter 11.96

JURISDICTION AND PROCEEDINGS

(Formerly: Appeals)

11.96.010 Appeals to supreme court or court of appeals. [1971 c 81 § 53; 1965 c 145 § 11.96.010. Prior: 1917 c 156 § 1221; RRS § 1591. Formerly RCW 11.16.040.] Recodified as RCW 11.96.160 pursuant to 1984 c 149 § 59, effective January 1, 1985.

Chapter 11.98

TRUSTS

11.98.010 Violation of rule against perpetuities by instrument--Periods during which trust not invalid. [1984 c 149 § 87; 1965 c 145 § 11.98.010. Prior: 1959 c 146 § 1.] Recodified as RCW 11.98.130 pursuant to 1984 c 149 § 86, effective January 1, 1985.

11.98.020 Distribution of assets and vesting of interest during period trust not invalid. [1984 c 149 § 88; 1965 c 145 § 11.98.020. Prior: 1959 c 146 § 2.] Recodified as RCW 11.98.140 pursuant to 1984 c 149 § 86, effective January 1, 1985.

11.98.030 Distribution of assets at expiration of period. [1984 c 149 § 89; 1965 c 145 § 11.98.030. Prior: 1959 c 146 § 3.] Recodified as RCW 11.98.150 pursuant to 1984 c 149 § 86, effective January 1, 1985.

11.98.040 Effective date of creation of trust. [1984 c 149 § 90; 1965 c 145 § 11.98.040. Prior: 1959 c 146 § 4.] Recodified as RCW 11.98.160 pursuant to 1984 c 149 § 86, effective January 1, 1985.

11.98.050 Application of chapter. [1984 c 149 § 93; 1971 ex.s. c 229 § 1; 1965 c 145 § 11.98.050. Prior: 1959 c 146 § 5.] Recodified as RCW 11.98.900 pursuant to 1984 c 149 § 92, effective January 1, 1985.

Title 12

JUSTICE COURTS--CIVIL PROCEDURE

Chapter 12.16

WITNESSES AND DEPOSITIONS

12.16.010 Witnesses may be subpoenaed if within twenty miles. [Code 1881 § 1869; 1873 p 370 § 168; 1854 p 233 § 57; RRS § 1898.] Repealed by 1984 c 258 § 703, effective July 1, 1984.

12.16.100 Depositions may be taken, when. [Code 1881 § 1878; 1873 p 371 § 177; 1854 p 234 § 66; RRS § 1907.] Repealed by 1984 c 258 § 703, effective July 1, 1984.

12.16.110 How taken and certified. [Code 1881 § 1879; 1873 p 371 § 178; 1854 p 234 § 67; RRS § 1908.] Repealed by 1984 c 258 § 703, effective July 1, 1984.

12.16.120 Deposition, how used on trial. [Code 1881 § 1880; 1873 p 372 § 179; 1854 p 234 § 68; RRS § 1909.] Repealed by 1984 c 258 § 703, effective July 1, 1984.

Title 13

JUVENILE COURTS AND JUVENILE OFFENDERS

Chapter 13.40

JUVENILE JUSTICE ACT OF 1977

13.40.260 Cost of five dollars in addition to fees, forfeitures, costs, penalties imposed--Disposition. [1981 c 330 § 4.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

13.40.270 Purchase of liability insurance by county to cover community service by juveniles--Community service insurance fund. [1981 c 266 § 2.] Repealed by 1984 c 24 § 5.

Title 18

BUSINESSES AND PROFESSIONS

Chapter 18.52

NURSING HOME ADMINISTRATORS

18.52.080 Provisional licenses. [1975 1st ex.s. c 30 § 53; 1970 ex.s. c 57 § 8.] Repealed by 1984 c 279 § 73.

Chapter 18.81

PROPHYLACTIC VENDORS

18.81.010 Definitions. [1939 c 192 § 1; RRS § 10146-1.] Repealed by 1984 c 153 § 22.

18.81.020 Sale of prophylactics--Licenses required. [1939 c 192 § 2; RRS § 10146-2. FORMER PART OF SECTION: 1939 c 192 § 5; RRS § 10146-5, now codified as RCW 18.81.025.] Repealed by 1984 c 153 § 22.

18.81.025 Sale of prophylactics--Physicians and surgeons excepted. [1939 c 192 § 5; RRS § 10146-5. Formerly RCW 18.81.020, part.] Repealed by 1984 c 153 § 22.

18.81.035 Retail dealer's license--Eligibility. [1971 ex.s. c 185 § 3.] Repealed by 1984 c 153 § 22.

18.81.040 License fees. [1971 ex.s. c 201 § 7; 1939 c 192 § 4; RRS § 10146-4.] Repealed by 1984 c 153 § 22.

18.81.050 Refusal, revocation, and suspension of licenses. [1939 c 192 § 8; RRS § 10146-8.] Repealed by 1984 c 153 § 22.

18.81.060 Sale of inefficacious prophylactics prohibited. [1939 c 192 § 6; RRS § 10146-6. FORMER PART OF SECTION: 1939 c 192 § 9, part; RRS § 10146-9, part, now codified in RCW 18.81.065.] Repealed by 1984 c 153 § 22.

18.81.065 Seizure and destruction of nonconforming prophylactics. [1939 c 192 § 9; RRS § 10146-9. Formerly RCW 18.81.060, part and 18.81.070, part.] Repealed by 1984 c 153 § 22.

18.81.070 Violations--Penalties. [1939 c 192 § 10; RRS § 10146-10. FORMER PART OF SECTION: 1939 c 192 § 9, part; RRS § 10146-9, part, now codified in RCW 18.81.065.] Repealed by 1984 c 153 § 22.

18.81.080 Enforcement provisions. [1939 c 192 § 7; RRS § 10146-7.] Repealed by 1984 c 153 § 22.

18.81.900 Severability--1939 c 192. [1939 c 192 § 11.] Repealed by 1984 c 153 § 22.

Chapter 18.83

PSYCHOLOGISTS

18.83.030 Examining board--Composition--Terms--Vacancies--Chairman. [1971 ex.s. c 292 § 27; 1965 c 70 § 3; 1955 c 305 § 3.] Repealed by 1984 c 279 § 93. Later enactment, see RCW 18.83.035.

18.83.040 Examining board--Meetings--Quorum. [1965 c 70 § 4; 1955 c 305 § 4.] Repealed by 1984 c 279 § 93. Later enactment, see RCW 18.83.045.

18.83.140 Denial, suspension, revocation of license—Hearings. [1965 c 70 § 14; 1955 c 305 § 14.] Repealed by 1984 c 279 § 93.

18.83.150 Denial, suspension, revocation of license—Procedure. [1965 c 70 § 15; 1955 c 305 § 15.] Repealed by 1984 c 279 § 93.

18.83.160 Denial, suspension, revocation of license—Appeal. [1971 c 81 § 61; 1965 c 70 § 16; 1955 c 305 § 16.] Repealed by 1984 c 279 § 93.

Title 19 BUSINESS REGULATIONS— MISCELLANEOUS

Chapter 19.10 CHARITABLE TRUSTS

19.10.010 Purpose. [1967 ex.s. c 53 § 1.] Recodified as RCW 11.110.010 pursuant to 1984 c 149 § 147, effective January 1, 1985.

19.10.020 Definitions. [1971 ex.s. c 226 § 1; 1967 ex.s. c 53 § 2.] Recodified as RCW 11.110.020 pursuant to 1984 c 149 § 147, effective January 1, 1985.

19.10.040 Information, documents, and reports are public records—Inspection—Publication. [1967 ex.s. c 53 § 4.] Recodified as RCW 11.110.040 pursuant to 1984 c 149 § 147, effective January 1, 1985.

19.10.050 Register of trustees—Establishment and maintenance. [1984 c 149 § 149; 1967 ex.s. c 53 § 5.] Recodified as RCW 11.110.050 pursuant to 1984 c 149 § 148, effective January 1, 1985.

19.10.060 Instrument establishing trust, inventory of assets, tax exempt status or claim, tax return to be filed. [1984 c 149 § 150; 1971 ex.s. c 226 § 2; 1967 ex.s. c 53 § 6.] Recodified as RCW 11.110.060 pursuant to 1984 c 149 § 148, effective January 1, 1985.

19.10.070 Reports of trustee—Filing—Rules and regulations. [1971 ex.s. c 226 § 3; 1967 ex.s. c 53 § 7.] Recodified as RCW 11.110.070 pursuant to 1984 c 149 § 151, effective January 1, 1985.

19.10.073 Reports of trustee—Trustees exempt from RCW 19.10.070. [1984 c 149 § 153; 1971 ex.s. c 226 § 4.] Recodified as RCW 11.110.073 pursuant to 1984 c 149 § 152, effective January 1, 1985.

19.10.075 Trusts not exclusively for charitable purposes—Instrument and information not public—Filings and reporting, when required. [1984 c 149 § 154; 1971 ex.s. c 226 § 5.] Recodified as RCW 11.110.075 pursuant to 1984 c 149 § 152, effective January 1, 1985.

19.10.080 Custodian of court records to furnish copies to attorney general—List of tax exemption applications to be filed. [1967 ex.s. c 53 § 8.] Recodified as RCW 11.110.080 pursuant to 1984 c 149 § 155, effective January 1, 1985.

19.10.090 Uniformity of chapter with laws of other states. [1967 ex.s. c 53 § 9.] Recodified as RCW 11.110.090 pursuant to 1984 c 149 § 155, effective January 1, 1985.

19.10.100 Investigations by attorney general authorized—Appearance and production of books, papers, documents, etc., may be required. [1967 ex.s. c 53 § 10.] Recodified as RCW 11.110.100 pursuant to 1984 c 149 § 155, effective January 1, 1985.

19.10.110 Order to appear—Effect—Enforcement—Court review. [1984 c 149 § 157; 1971 c 81 § 64; 1967 ex.s. c 53 § 11.] Recodified as RCW 11.110.110 pursuant to 1984 c 149 § 156, effective January 1, 1985.

19.10.120 Proceedings to secure compliance and proper trust administration—Attorney general to be notified of judicial proceedings involving charitable trust—Powers and duties additional. [1984 c 149 § 158; 1967 ex.s. c 53 § 12.] Recodified as RCW 11.110.120 pursuant to 1984 c 149 § 156, effective January 1, 1985.

19.10.125 Violations—Refusal to file reports, perform duties, etc. [1971 ex.s. c 226 § 6.] Recodified as RCW 11.110.125 pursuant to 1984 c 149 § 159, effective January 1, 1985.

19.10.130 Violations—Civil action may be prosecuted. [1967 ex.s. c 53 § 13.] Recodified as RCW 11.110.130 pursuant to 1984 c 149 § 159, effective January 1, 1985.

19.10.140 Penalty. [1967 ex.s. c 53 § 14.] Recodified as RCW 11.110.140 pursuant to 1984 c 149 § 159, effective January 1, 1985.

19.10.200 Tax Reform Act of 1969, state implementation—Application to trusts. [1984 c 149 § 161; 1971 c 58 § 1.] Recodified as RCW 11.110.200 pursuant to 1984 c 149 § 160, effective January 1, 1985.

19.10.210 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain prohibiting provisions. [1984 c 149 § 162; 1971 c 58 § 2.] Recodified as RCW 11.110.210 pursuant to 1984 c 149 § 160, effective January 1, 1985.

19.10.220 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain certain provisions for distribution. [1984 c 149 § 163; 1971 c 58 § 3.] Recodified as RCW 11.110.220 pursuant to 1984 c 149 § 160, effective January 1, 1985.

19.10.230 Tax Reform Act of 1969, state implementation—Rights, powers, of courts, attorney general, not impaired. [1984 c 149 § 164; 1971 c 58 § 4.] Recodified as RCW 11.110.230 pursuant to 1984 c 149 § 160, effective January 1, 1985.

19.10.240 Tax Reform Act of 1969, state implementation—Construction of references to federal code. [1984 c 149 § 165; 1982 1st ex.s. c 41 § 3; 1971 c 58 § 5.] Recodified as RCW 11.110.240 pursuant to 1984 c 149 § 160, effective January 1, 1985.

19.10.250 Tax Reform Act of 1969, state implementation—Application to new trust or amendment to existing trust. [1984 c 149 § 167; 1971 c 58 § 6.] Recodified as RCW 11.110.250 pursuant to 1984 c 149 § 166, effective January 1, 1985.

19.10.260 Tax Reform Act of 1969, state implementation—Severability—RCW 19.10.210 through 19.10.260. [1984 c 149 § 168; 1971 c 58 § 7.] Recodified as RCW 11.110.260 pursuant to 1984 c 149 § 166, effective January 1, 1985.

19.10.270 Tax Reform Act of 1969, state implementation—Not for profit corporations. Cross-reference section, recodified as RCW 11.110.270 pursuant to 1984 c 149 § 169, effective January 1, 1985.

19.10.900 Severability—1967 ex.s. c 53. [1967 ex.s. c 53 § 15.] Recodified as RCW 11.110.900 pursuant to 1984 c 149 § 169, effective January 1, 1985.

Chapter 19.60 PAWN BROKERS AND SECOND-HAND DEALERS

19.60.015 "Second-hand dealer"—Defined. [1909 c 249 § 236; RRS § 2488. Formerly RCW 19.60.010, part.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.030 Inspection of records and goods. [1909 c 249 § 230; RRS § 2482.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.063 Penalty. [1971 ex.s. c 292 § 29; 1909 c 249 § 233; RRS § 2485. Formerly RCW 19.60.110.] Repealed by 1984 c 10 § 14, effective March 22, 1984. Later enactment, see RCW 19.60.066.

19.60.065 Second-hand watches—Definitions. [1939 c 89 § 1; RRS § 2488-1. Formerly RCW 19.60.010, part.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.070 Second-hand watches—Tags. [1939 c 89 § 2; RRS § 2488-2.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.080 Second-hand watches—Invoice—Duplicate. [1939 c 89 § 3; RRS § 2488-3.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.090 Second-hand watches—Advertising. [1939 c 89 § 4; RRS § 2488-4.] Repealed by 1984 c 10 § 14, effective March 22, 1984.

19.60.100 Second-hand watches—Penalties for violations. [1939 c 89 § 5; RRS § 2488-5.] Repealed by 1984 c 10 § 14, effective March 22, 1984. Later enactment, see RCW 19.60.066.

Chapter 19.80

TRADE NAMES

19.80.020 Exemptions. [1907 c 145 § 4; RRS § 9979.] Repealed by 1984 c 130 § 10, effective October 1, 1984.

19.80.030 Change of ownership--New certificate. [1907 c 145 § 3; RRS § 9978.] Repealed by 1984 c 130 § 10, effective October 1, 1984.

Title 21

SECURITIES AND INVESTMENTS

Chapter 21.24

UNIFORM GIFTS TO MINORS ACT

21.24.010 Definitions. [1984 c 149 § 16; 1971 ex.s. c 292 § 30; 1967 ex.s. c 88 § 1; 1959 c 202 § 1.] Recodified as RCW 11.93.010 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.020 Manner of making gift. [1984 c 149 § 17; 1967 ex.s. c 88 § 2; 1959 c 202 § 2.] Recodified as RCW 11.93.020 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.030 Effect of gift. [1984 c 149 § 18; 1967 ex.s. c 88 § 3; 1959 c 202 § 3.] Recodified as RCW 11.93.030 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.040 Duties and powers of custodian. [1984 c 149 § 19; 1971 ex.s. c 292 § 31; 1967 ex.s. c 88 § 4; 1959 c 202 § 4.] Recodified as RCW 11.93.040 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.050 Custodian's expenses, compensation, bond, and liabilities. [1984 c 149 § 20; 1959 c 202 § 5.] Recodified as RCW 11.93.050 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.060 Exemption of third persons from liability. [1984 c 149 § 21; 1967 ex.s. c 88 § 5; 1959 c 202 § 6.] Recodified as RCW 11.93.060 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.070 Resignation, death, or removal of custodian--Bond--Appointment of successor custodian. [1984 c 149 § 22; 1971 ex.s. c 292 § 32; 1967 ex.s. c 88 § 6; 1959 c 202 § 7.] Recodified as RCW 11.93.070 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.080 Accounting by custodian. [1984 c 149 § 23; 1959 c 202 § 8.] Recodified as RCW 11.93.080 pursuant to 1984 c 149 § 15, effective January 1, 1985.

21.24.090 Construction--1959 c 202. [1959 c 202 § 9.] Recodified as RCW 11.93.910 pursuant to 1984 c 149 § 24, effective January 1, 1985.

21.24.091 Construction--1967 ex.s. c 88. [1967 ex.s. c 88 § 7.] Recodified as RCW 11.93.911 pursuant to 1984 c 149 § 24, effective January 1, 1985.

21.24.100 Short title. [1959 c 202 § 10.] Recodified as RCW 11.93.900 pursuant to 1984 c 149 § 24, effective January 1, 1985.

21.24.900 Severability--1959 c 202. [1959 c 202 § 11.] Recodified as RCW 11.93.920 pursuant to 1984 c 149 § 24, effective January 1, 1985.

Chapter 21.25

GIFTS OF REALTY TO MINORS ACT
(Later enactment, see chapter 11.93 RCW)

21.25.010 Definitions. [1971 ex.s. c 292 § 33; 1967 ex.s. c 88 § 8.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.020 Manner of making gift. [1967 ex.s. c 88 § 9.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.030 Effect of gift. [1967 ex.s. c 88 § 10.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.040 Duties and powers of custodian. [1971 ex.s. c 292 § 34; 1967 ex.s. c 88 § 11.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.050 Custodian's expenses, compensation, bond, and liability. [1967 ex.s. c 88 § 12.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.060 Exemption of third persons from liability. [1967 ex.s. c 88 § 13.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.070 Resignation, death, or removal of custodian--Bond--Appointment of successor custodian. [1971 ex.s. c 292 § 35; 1967 ex.s. c 88 § 14.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.080 Accounting by custodian. [1967 ex.s. c 88 § 15.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.090 Transfer of income proceeds or corpus into an account qualifying under chapter 21.24 RCW. [1967 ex.s. c 88 § 16.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.100 Construction--1967 ex.s. c 88. [1967 ex.s. c 88 § 17.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.110 Short title. [1967 ex.s. c 88 § 18.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

21.25.900 Severability--1967 ex.s. c 88. [1967 ex.s. c 88 § 19.] Repealed by 1984 c 149 § 178, effective January 1, 1985.

Title 23A

WASHINGTON BUSINESS CORPORATION
ACT

Chapter 23A.08

SUBSTANTIVE PROVISIONS

23A.08.170 Determination of amount of stated capital. [1965 c 53 § 20.] Repealed by 1984 c 75 § 26.

23A.08.430 Distributions from capital surplus. [1967 c 190 § 9; 1965 c 53 § 46.] Repealed by 1984 c 75 § 26.

Chapter 23A.16

AMENDMENT

23A.16.090 Restriction on redemption or purchase of redeemable shares. [1965 c 53 § 68.] Repealed by 1984 c 75 § 26.

23A.16.100 Cancellation of redeemable shares by redemption or purchase. [1982 c 35 § 22; 1977 ex.s. c 193 § 9; 1965 c 53 § 69.] Repealed by 1984 c 75 § 26.

23A.16.110 Cancellation of other reacquired shares. [1982 c 35 § 23; 1977 ex.s. c 193 § 10; 1965 c 53 § 70.] Repealed by 1984 c 75 § 26.

23A.16.120 Reduction of stated capital in certain cases. [1982 c 35 § 24; 1977 ex.s. c 193 § 11; 1965 c 53 § 71.] Repealed by 1984 c 75 § 26.

23A.16.130 Special provisions relating to surplus and reserves. [1965 c 53 § 72.] Repealed by 1984 c 75 § 26.

Title 26

DOMESTIC RELATIONS

Chapter 26.20

FAMILY ABANDONMENT OR NONSUPPORT
(Formerly: Family desertion)

26.20.050 Alternative remedies to enforce support--Procedure on failure to comply with order. [1973 1st ex.s. c 154 § 35; 1927 c 297 § 1; 1913 c 28 § 2; RRS § 6909. Prior: 1907 c 103 § 1, part. Formerly RCW 26.20.050 and 26.20.060, part.] Repealed by 1984 c 260 § 44.

Chapter 26.32

ADOPTION

(Later enactment, see chapter 26.33 RCW)

- 26.32.010 Definition**—"Approved agency". [1955 c 291 § 1. Prior: 1943 c 268 § 1a; Rem. Supp. 1943 § 1699-2.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.015 Definitions.** [1979 ex.s. c 165 § 1.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.020 Who may adopt.** [1955 c 291 § 2. Prior: 1943 c 268 § 2; Rem. Supp. 1943 § 1699-3.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.030 Consent to adoption.** [1980 c 85 § 1; 1979 ex.s. c 165 § 15; 1975-'76 2nd ex.s. c 42 § 26; 1973 c 134 § 2; 1955 c 291 § 3. Prior: 1947 c 251 § 1; 1943 c 268 § 3; Rem. Supp. 1947 § 1699-4.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.032 Petition for termination of the parent and child relationship.** [1979 ex.s. c 165 § 2.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.034 Petition for termination--Who may file.** [1979 ex.s. c 165 § 3.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.036 Contents of petition for termination.** [1979 ex.s. c 165 § 4.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.038 Commencement of termination action--Petition by pregnant woman--Notice, contents--Proof of service.** [1979 ex.s. c 165 § 5.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.042 Appointment of guardian ad litem--When required.** [1979 ex.s. c 165 § 7.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.044 Hearing on petition--Notice and appearance--Waiver.** [1979 ex.s. c 165 § 8.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.046 Private hearing on petition required--Witnesses.** [1979 ex.s. c 165 § 9.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.048 Hearing on petition--Notice by publication--Unknown father.** [1979 ex.s. c 165 § 10.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.052 Failure to file--Termination of paternal rights.** [1979 ex.s. c 165 § 11.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.054 Contested termination--Alleged father--Court action--Right to counsel.** [1979 ex.s. c 165 § 12.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.056 Contested termination--Parent and spouse petitioners--Court's finding.** [1979 ex.s. c 165 § 13.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.058 Effect of termination order.** [1979 ex.s. c 165 § 14.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.060 Petition to adopt--Contents.** [1979 ex.s. c 165 § 16; 1955 c 291 § 6. Prior: 1943 c 268 § 6; Rem. Supp. 1943 § 1699-7.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.090 Next friend--Investigation and report.** [1979 c 155 § 75; 1971 ex.s. c 172 § 1; 1955 c 291 § 9. Prior: 1947 c 251 § 3; 1943 c 268 § 9; Rem. Supp. 1947 § 1699-10.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.100 Hearing required--Private hearing.** [1955 c 291 § 10. Prior: 1943 c 268 § 10; Rem. Supp. 1943 § 1699-11.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.110 When investigation and notice may be dispensed with.** [1971 ex.s. c 292 § 38; 1955 c 291 § 11. Prior: 1947 c 251 § 5; 1943 c 268 § 14; Rem. Supp. 1947 § 1699-15.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.115 Adoption of hard to place children--Court to consider state agreement with prospective adoptive parents.** [1971 ex.s. c 63 § 12.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.120 Decree--Contents.** [1979 ex.s. c 165 § 19; 1979 ex.s. c 101 § 1; 1955 c 291 § 12. Prior: 1947 c 251 § 4, part; 1943 c 268 § 11, part; Rem. Supp. 1947 § 1699-12, part.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.140 Effect of decree of adoption.** [1955 c 291 § 14. Prior: 1943 c 268 § 12; Rem. Supp. 1943 § 1699-13.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.150 Records to be sealed.** [1955 c 291 § 15. Prior: 1943 c 268 § 13; Rem. Supp. 1943 § 1699-14.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.160 Copy of decree to registrar.** [1955 c 291 § 16. Prior: 1943 c 268 § 15; Rem. Supp. 1943 § 1699-16.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.200 Preplacement study and report--Definitions.** [1971 ex.s. c 172 § 2.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.210 Preplacement report required before adoption or relocation.** [1979 ex.s. c 165 § 17; 1971 ex.s. c 172 § 3.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.220 Preplacement report--Contents.** [1971 ex.s. c 172 § 4.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.230 Preplacement study and report--How conducted--Fees--Filing of report.** [1971 ex.s. c 172 § 5.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.240 Preplacement study by more than one agency--Reports to be filed--Incomplete reports.** [1971 ex.s. c 172 § 6.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.250 Notice to agency or person making preplacement study--Service--Appearance--Waiver.** [1971 ex.s. c 172 § 7.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.260 Preplacement report--Copies--Filing--Confidentiality.** [1971 ex.s. c 172 § 8.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.270 Preplacement study and report--Agency having custody--Exemptions.** [1971 ex.s. c 172 § 9.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.280 Statistical data concerning adoptions.** [1977 c 75 § 13; 1971 ex.s. c 172 § 10.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.300 Petition by natural parent to set aside adoption--Liability for costs of support.** [1975-'76 2nd ex.s. c 42 § 32; 1973 c 134 § 10.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.310 Action by natural parent to set aside adoption conditioned upon bond to satisfy support costs.** [1975-'76 2nd ex.s. c 42 § 33; 1973 c 134 § 11.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.900 Short title.** [1943 c 268 § 1; no RRS.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.910 Severability--1943 c 268.** [1943 c 268 § 17; no RRS.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.911 Severability--1979 ex.s. c 165.** [1979 ex.s. c 165 § 26.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.915 Application--1979 ex.s. c 165.** [1979 ex.s. c 165 § 25.] Repealed by 1984 c 155 § 38, effective January 1, 1985.
- 26.32.916 Savings--Certain actions--Time limit.** [1980 c 85 § 2.] Repealed by 1984 c 155 § 38, effective January 1, 1985.

Chapter 26.36

CHILD AGENCIES

- 26.36.010 Court order for relinquishment of permanent care, etc.** [1951 c 251 § 1; 1939 c 162 § 1; 1935 c 150 § 1; RRS § 1700-1. Prior:

1933 c 62 § 1.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.36.020 Children's agencies to keep records. [1935 c 150 § 2; RRS § 1700-2. Prior: 1933 c 62 § 2, part.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.36.030 Records not to be divulged. [1935 c 150 § 3; RRS § 1700-3. Prior: 1933 c 62 §§ 2, part and 3.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.36.040 No disposal of infants without order--Advertising. [1951 c 251 § 2; 1939 c 162 § 2; 1935 c 150 § 4; RRS § 1700-4.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.36.050 Medical report required to be furnished adopting parents--Contents. [1979 ex.s. c 165 § 20; 1977 ex.s. c 80 § 21; 1970 ex.s. c 82 § 1.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.36.060 Penalty. [1935 c 150 § 6; RRS § 1700-6.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

Chapter 26.37

PROTECTION OF ORPHAN, HOMELESS, OR NEGLECTED CHILDREN

26.37.010 Societies may receive, control, and dispose of children. [1979 ex.s. c 165 § 18; 1975-'76 2nd ex.s. c 42 § 34; 1973 c 134 § 7; 1903 c 49 § 1; RRS § 1700.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.020 Warrant to take charge of child--Proceedings. [1973 1st ex.s. c 154 § 44; 1903 c 49 § 2; RRS § 1701.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.030 County charges--Surrender to society. [1903 c 49 § 3; RRS § 1702.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.040 Investigation of neglect--Duty of police. [1903 c 49 § 4; RRS § 1703.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.050 Minor convicted of offense--Rights of parent. [1903 c 49 § 5; RRS § 1704.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.060 Society not to act as guardian. [1903 c 49 § 6; RRS § 1705.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.070 Hearing on habeas corpus--Evidence. [1903 c 49 § 7; RRS § 1706.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

26.37.080 Court costs and child care expense. [1903 c 49 § 8; RRS § 1707.] Repealed by 1984 c 155 § 39, effective January 1, 1985.

Title 27

LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapter 27.04

STATE LIBRARY

27.04.035 Duties of commission--Contracts for services to the blind. [1955 c 170 § 1.] Repealed by 1984 c 152 § 4.

27.04.037 Duties of commission--Deposit of copies of state publications. [1977 ex.s. c 232 § 7.] Repealed by 1984 c 152 § 4.

27.04.040 Library service to be expanded. [1945 c 232 § 1; Rem. Supp. 1945 § 10771-4. Prior: See Reviser's note following RCW 27.04.010.] Repealed by 1984 c 152 § 4.

27.04.060 Commission may accept federal funds. [1949 c 39 § 1; Rem. Supp. 1949 § 8216-1. Prior: See Reviser's note following RCW 27.04.010.] Repealed by 1984 c 152 § 4.

27.04.070 Contracts to provide state agencies with library materials, supplies, equipment and personnel. [1967 c 67 § 1.] Repealed by 1984 c 152 § 4.

27.04.090 Depository for newspapers. [1981 c 220 § 1.] Repealed by 1984 c 152 § 4.

Title 28A

COMMON SCHOOL PROVISIONS

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

28A.03.051 Accumulated sick leave fund moneys transferred. [1975 1st ex.s. c 60 § 2.] Repealed by 1984 c 40 § 11.

Chapter 28A.16

PROGRAMS FOR HIGHLY CAPABLE STUDENTS

(Formerly: Special education--Division for superior students)

28A.16.010 Division created--Superior students defined. [1969 ex.s. c 223 § 28A.16.010. Prior: 1961 c 116 § 2. Formerly RCW 28.16.010.] Repealed by 1984 c 278 § 15.

28A.16.020 Program--Scope--Costs. [1969 ex.s. c 223 § 28A.16.020. Prior: 1961 c 116 § 3. Formerly RCW 28.16.020.] Repealed by 1984 c 278 § 15. Later enactment, see RCW 28A.16.040.

28A.16.030 Authority of school districts--Joint programs with institutions of higher learning. [1969 ex.s. c 223 § 28A.16.030. Prior: 1961 c 116 § 4. Formerly RCW 28.16.030.] Repealed by 1984 c 278 § 15. Later enactment, see RCW 28A.16.060.

Chapter 28A.21

EDUCATIONAL SERVICE DISTRICTS--SUPERINTENDENT--BOARDS

28A.21.036 ESD board--Members--Expiration of terms if elected prior to September 21, 1977. [1977 ex.s. c 283 § 23.] Repealed by 1984 c 40 § 12.

Chapter 28A.31

HEALTH MEASURES

28A.31.122 Immunization program--Applicable to children in grades 7-12, when. [1979 ex.s. c 118 § 12.] Repealed by 1984 c 40 § 13.

Chapter 28A.51

DISTRICT BONDS FOR LANDS, BUILDINGS AND EQUIPMENT

28A.51.030 Certificate of results of election to county treasurer--Sale provisions--Contents of bonds--Registration. [1983 c 167 § 22; 1969 ex.s. c 223 § 28A.51.030. Prior: 1919 c 90 § 13; 1909 c 97 p 325 § 3; RRS § 4943; prior: 1907 c 101 § 2; 1905 c 142 § 6; 1897 c 118 § 119; 1890 p 46 § 3. Formerly RCW 28.51.030, 28.51.040, part, 28.51.050, part and 28.51.060.] Repealed by 1984 c 186 § 70.

28A.51.055 Signature on bonds by designee. [1983 c 167 § 23; 1969 ex.s. c 223 § 28A.51.055. Prior: 1951 c 88 § 1. Formerly RCW 28.51.055.] Repealed by 1984 c 186 § 70.

28A.51.056 Signature on bonds by designee--Authorization--Revocation. [1969 ex.s. c 223 § 28A.51.056. Prior: 1951 c 88 § 2. Formerly RCW 28.51.056.] Repealed by 1984 c 186 § 70.

28A.51.057 Signature on bonds by designee--Liability of officer affixing signature through a designee. [1969 ex.s. c 223 § 28A.51.057. Prior: 1951 c 88 § 3. Formerly RCW 28.51.057.] Repealed by 1984 c 186 § 70.

28A.51.058 Signature on bonds by designee--Coupons--Facsimile signatures. [1969 ex.s. c 223 § 28A.51.058. Prior: 1951 c 88 § 4. Formerly RCW 28.51.058.] Repealed by 1984 c 186 § 70.

28A.51.210 Cancellation of redeemed bonds. [1969 ex.s. c 223 § 28A.51.210. Prior: 1911 c 88 § 4; 1909 c 97 p 330 § 15; RRS § 4955; prior: 1897 c 118 § 127; 1890 p 50 § 11. Formerly RCW 28.51.210.] Repealed by 1984 c 186 § 70.

Chapter 28A.52

VALIDATING INDEBTEDNESS--BONDS

28A.52.055 Resolution of issuance and sale--Applicable law--Interest--Advertising--Bids--Disposition of proceeds. [1983 c 167 § 29; 1969 ex.s. c 223 § 28A.52.055. Prior: 1909 c 97 p 334 § 6; RRS §

4961; prior: 1897 c 118 § 133; 1895 c 21 § 6. Formerly RCW 28.52-.055.] Repealed by 1984 c 186 § 70.

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

28A.58.092 Student learning objectives—Timelines for other courses of study—SPI annual review and report. [1977 ex.s. c 305 § 2.] Repealed by 1984 c 278 § 4.

28A.58.756 Basic Education Act of 1977—Rules adopted pursuant to as subject to legislative review. [1977 ex.s. c 359 § 16.] Repealed by 1984 c 40 § 14.

Chapter 28A.60

PROVISIONS APPLICABLE ONLY TO SECOND AND THIRD CLASS DISTRICTS

28A.60.352 Housing for superintendent—Prior contracts, indebtedness, validated. [1975 1st ex.s. c 41 § 2.] Repealed by 1984 c 40 § 15.

Chapter 28A.66

SCHOOL DISTRICT WARRANTS, AUDITOR'S DUTIES RELATING TO

28A.66.090 Check and report of redeemed warrants—All districts. [1969 ex.s. c 223 § 28A.66.090. Prior: 1911 c 78 § 1, part; RRS § 4865. Formerly RCW 28.66.090.] Repealed by 1984 c 128 § 12.

Chapter 28A.98

CONSTRUCTION

28A.98.020 Intermediate district board member elections. [1969 ex.s. c 223 § 28A.98.020.] Repealed by 1984 c 40 § 16.

Title 29 ELECTIONS

Chapter 29.82

THE RECALL

29.82.020 Determining whether recall charges meet constitutional requirements—Ballot synopsis. [1980 c 42 § 3; 1971 ex.s. c 205 § 1; 1965 c 9 § 29.82.020. Prior: 1913 c 146 § 3; RRS § 5352.] Repealed by 1984 c 170 § 13.

29.82.026 Obtaining and filing supporting signatures—Time limitation—If supporting signatures being sought on May 21, 1971. [1971 ex.s. c 205 § 3.] Repealed by 1984 c 170 § 13.

29.82.070 Expense—Contributors—Sworn statement. [1965 c 9 § 29.82.070. Prior: 1913 c 146 § 8, part; RRS § 5357, part.] Repealed by 1984 c 170 § 13.

Chapter 29.85

CRIMES AND PENALTIES

29.85.270 Political advertising—Use of assumed name—Campaign advertising picture. [1975 1st ex.s. c 162 § 1; 1965 c 9 § 29.85.270. Prior: 1959 c 112 § 1; 1955 c 317 § 1.] Repealed by 1984 c 216 § 6. Later enactment, see RCW 42.17.510, 42.17.520, 42.17.540.

29.85.280 Political advertising—Campaign advertising picture—Penalty. [1975 1st ex.s. c 162 § 2; 1965 c 9 § 29.85.280. Prior: 1955 c 317 § 2.] Repealed by 1984 c 216 § 6. Later enactment, see RCW 42.17.510, 42.17.520, 42.17.540.

Title 30

BANKS AND TRUST COMPANIES

Chapter 30.24

INVESTMENT OF TRUST FUNDS

30.24.010 Provisions of chapter to control. [1955 c 33 § 30.24.010. Prior: 1947 c 100 § 1; Rem. Supp. 1947 § 3255-10a.] Recodified as RCW 11.100.010 pursuant to 1984 c 149 § 95, effective January 1, 1985.

30.24.015 Guardians, guardianships and funds are subject to chapter. [1955 c 33 § 30.24.015. Prior: 1951 c 218 § 1.] Recodified as RCW 11.100.015 pursuant to 1984 c 149 § 95, effective January 1, 1985.

30.24.020 General criterion specified. [1984 c 149 § 97; 1955 c 33 § 30.24.020. Prior: 1947 c 100 § 2; Rem. Supp. 1947 § 3255-10b.] Recodified as RCW 11.100.020 pursuant to 1984 c 149 § 96, effective January 1, 1985.

30.24.030 Investment in savings accounts—Requirements. [1984 c 129 § 101; 1967 c 133 § 3; 1955 c 33 § 30.24.030. Prior: 1947 c 100 § 3; Rem. Supp. 1947 § 3255-10c.] Recodified as RCW 11.100.030 pursuant to 1984 c 149 § 100, effective January 1, 1985.

30.24.035 Investments in securities of certain investment trusts. [1955 c 33 § 30.24.035. Prior: 1951 c 132 § 1.] Recodified as RCW 11.100.035 pursuant to 1984 c 149 § 102, effective January 1, 1985.

30.24.037 Investment or distribution of funds held in fiduciary capacity—Deposit in other departments authorized—Collateral security required, exception. [1984 c 149 § 104; 1967 c 133 § 4.] Recodified as RCW 11.100.037 pursuant to 1984 c 149 § 103, effective January 1, 1985.

30.24.040 Court may permit deviation from terms of trust instrument. [1955 c 33 § 30.24.040. Prior: 1947 c 100 § 4; Rem. Supp. 1947 § 3255-10d.] Recodified as RCW 11.100.040 pursuant to 1984 c 149 § 105, effective January 1, 1985.

30.24.050 Scope of chapter. [1984 c 149 § 107; 1955 c 33 § 30.24.050. Prior: 1947 c 100 § 5; Rem. Supp. 1947 § 3255-10e.] Recodified as RCW 11.100.050 pursuant to 1984 c 149 § 106, effective January 1, 1985.

30.24.060 Fiduciary may hold trust property though not qualified investment and securities are securities issued by the corporation which is the fiduciary. [1967 c 209 § 1; 1955 c 33 § 30.24.060. Prior: 1947 c 100 § 6; 1941 c 41 § 11; Rem. Supp. 1947 § 3255-11.] Repealed by 1984 c 149 § 178, effective January 1, 1985. Later enactment, see RCW 11.100.060.

30.24.070 Terms of trust instrument controlling. [1984 c 149 § 110; 1955 c 33 § 30.24.070. Prior: 1947 c 100 § 7; 1941 c 41 § 13; Rem. Supp. 1947 § 3255-13.] Recodified as RCW 11.100.070 pursuant to 1984 c 149 § 109, effective January 1, 1985.

30.24.090 Dealings with self or affiliate. [1984 c 149 § 111; 1955 c 33 § 30.24.090. Prior: 1947 c 100 § 9; 1941 c 41 § 17; Rem. Supp. 1947 § 3255-17.] Recodified as RCW 11.100.090 pursuant to 1984 c 149 § 109, effective January 1, 1985.

30.24.120 Investments in policies of life insurance. [1984 c 149 § 112; 1973 1st ex.s. c 89 § 1.] Recodified as RCW 11.100.120 pursuant to 1984 c 149 § 109, effective January 1, 1985.

30.24.130 Person to whom power or authority to direct or control acts of trustee or investments of a trust are conferred deemed a fiduciary—Liability. [1973 1st ex.s. c 89 § 2.] Recodified as RCW 11.100.130 pursuant to 1984 c 149 § 113, effective January 1, 1985.

Chapter 30.28

COMMON TRUST FUNDS

30.28.010 Funds authorized—Investment—Rules and regulations—"Affiliated" defined. [1979 c 105 § 1; 1955 c 33 § 30.28.010. Prior: 1943 c 55 § 1; Rem. Supp. 1943 § 3388.] Recodified as RCW 11.102.010 pursuant to 1984 c 149 § 115, effective January 1, 1985.

30.28.020 Accounting. [1955 c 33 § 30.28.020. Prior: 1943 c 55 § 2; Rem. Supp. 1943 § 3388-1.] Recodified as RCW 11.102.020 pursuant to 1984 c 149 § 115, effective January 1, 1985.

30.28.030 Applicability of chapter. [1955 c 33 § 30.28.030. Prior: 1943 c 55 § 7; Rem. Supp. 1943 § 3388-6.] Recodified as RCW 11.102.030 pursuant to 1984 c 149 § 115, effective January 1, 1985.

30.28.040 Interpretation. [1955 c 33 § 30.28.040. Prior: 1943 c 55 § 3; Rem. Supp. 1943 § 3388-2.] Recodified as RCW 11.102.040 pursuant to 1984 c 149 § 115, effective January 1, 1985.

30.28.050 Chapter designated "uniform common trust fund act". [1955 c 33 § 30.28.050. Prior: 1943 c 55 § 4; Rem. Supp. 1943 § 3388-3.] Recodified as RCW 11.102.050 pursuant to 1984 c 149 § 115, effective January 1, 1985.

Chapter 30.30

TRUSTEES' ACCOUNTING ACT

30.30.010 Scope of chapter--Exceptions. [1984 c 149 § 128; 1955 c 33 § 30.30.010. Prior: 1951 c 226 § 10.] Recodified as RCW 11.106.010 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.020 Trustee's annual statement. [1984 c 149 § 129; 1955 c 33 § 30.30.020. Prior: 1951 c 226 § 2.] Recodified as RCW 11.106.020 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.030 Intermediate and final accounts--Contents--Filing. [1984 c 149 § 130; 1955 c 33 § 30.30.030. Prior: 1951 c 226 § 3.] Recodified as RCW 11.106.030 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.040 Account--Court may require--Petition. [1984 c 149 § 131; 1955 c 33 § 30.30.040. Prior: 1951 c 226 § 4.] Recodified as RCW 11.106.040 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.050 Account filed--Return day--Notice. [1984 c 149 § 132; 1955 c 33 § 30.30.050. Prior: 1951 c 226 § 5.] Recodified as RCW 11.106.050 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.060 Account filed--Objections--Representation of beneficiaries. [1984 c 149 § 133; 1977 ex.s. c 80 § 31; 1955 c 33 § 30.30.060. Prior: 1951 c 226 § 6.] Recodified as RCW 11.106.060 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.070 Court to determine accuracy, validity--Decree. [1984 c 149 § 134; 1955 c 33 § 30.30.070. Prior: 1951 c 226 § 7.] Recodified as RCW 11.106.070 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.080 Effect of decree. [1984 c 149 § 135; 1955 c 33 § 30.30.080. Prior: 1951 c 226 § 8.] Recodified as RCW 11.106.080 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.090 Appeal from decree. [1984 c 149 § 136; 1971 c 81 § 80; 1955 c 33 § 30.30.090. Prior: 1951 c 226 § 9.] Recodified as RCW 11.106.090 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.100 Settlor may waive or increase accounting requirements--Waiver by beneficiary. [1984 c 149 § 137; 1955 c 33 § 30.30.100. Prior: 1951 c 226 § 11.] Recodified as RCW 11.106.100 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.110 Waiver--How constituted. [1984 c 149 § 138; 1955 c 33 § 30.30.110. Prior: 1951 c 226 § 12.] Recodified as RCW 11.106.110 pursuant to 1984 c 149 § 127, effective January 1, 1985.

30.30.120 Execution upon trust income or vested remainder--Permitted, when. [1955 c 33 § 30.30.120. Prior: 1951 c 226 § 1.] Recodified as RCW 11.96.150 pursuant to 1984 c 149 § 58, effective January 1, 1985.

Chapter 30.99

WASHINGTON TRUST ACT

30.99.010 Application of chapter. [1984 c 149 § 67; 1983 c 3 § 49; 1959 c 124 § 1.] Recodified as RCW 11.98.009 pursuant to 1984 c 149 § 66, effective January 1, 1985.

30.99.020 Power of trustee--Trust provisions control chapter provisions. [1984 c 149 § 64; 1959 c 124 § 2.] Recodified as RCW 11.97.010 pursuant to 1984 c 149 § 63, effective January 1, 1985.

30.99.030 Exercise of powers by co-trustees. [1984 c 149 § 68; 1959 c 124 § 3.] Recodified as RCW 11.98.016 pursuant to 1984 c 149 § 66, effective January 1, 1985.

30.99.040 Resignation of trustee. [1959 c 124 § 4.] Recodified as RCW 11.98.029 pursuant to 1984 c 149 § 70, effective January 1, 1985.

30.99.050 Filling vacancy in office of trustee. [1984 c 149 § 72; 1959 c 124 § 5.] Recodified as RCW 11.98.039 pursuant to 1984 c 149 § 71, effective January 1, 1985.

30.99.060 Power of successor trustee. [1959 c 124 § 6.] Recodified as RCW 11.98.060 pursuant to 1984 c 149 § 77, effective January 1, 1985.

30.99.070 Power of trustee. [1984 c 149 § 80; 1959 c 124 § 7.] Recodified as RCW 11.98.070 pursuant to 1984 c 149 § 79, effective January 1, 1985.

30.99.080 Nonliability of third persons without knowledge of breach. [1984 c 149 § 83; 1959 c 124 § 8.] Recodified as RCW 11.98.090 pursuant to 1984 c 149 § 82, effective January 1, 1985.

30.99.090 Nonliability for action or inaction based on lack of knowledge of events. [1984 c 149 § 84; 1959 c 124 § 9.] Recodified as RCW 11.98.100 pursuant to 1984 c 149 § 82, effective January 1, 1985.

30.99.100 Contract and tort liability. [1984 c 149 § 85; 1983 c 3 § 50; 1959 c 124 § 10.] Recodified as RCW 11.98.110 pursuant to 1984 c 149 § 82, effective January 1, 1985.

30.99.110 Tax reform act of 1969, state implementation--Application to certain trusts. Cross-reference section, decodified January, 1985.

30.99.900 Severability--1959 c 124. [1959 c 124 § 11.] Recodified as RCW 11.98.910 pursuant to 1984 c 149 § 94, effective January 1, 1985.

30.99.910 Short title. [1959 c 124 § 12.] Recodified as RCW 11.98.920 pursuant to 1984 c 149 § 94, effective January 1, 1985.

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapter 31.12

WASHINGTON STATE CREDIT UNION ACT

31.12.010 Definitions. [1957 c 23 § 2. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923-1, part.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.020 Declaration of policy--Defaults. [1981 c 81 § 1; 1973 1st ex.s. c 8 § 1; 1967 c 180 § 2; 1957 c 23 § 3. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923-1, part.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.030 Use of words in name--Exception--Compliance required. [1981 c 81 § 2; 1957 c 23 § 4. Prior: 1943 c 131 § 1, part; 1933 c 173 § 1, part; Rem. Supp. 1943 § 3923-1, part.] [1953 SLC-RO-3] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.040 Authority to organize and commence business. [1943 c 131 § 2; 1933 c 173 § 2; Rem. Supp. 1943 § 3923-2.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.050 Manner of organizing--Articles, approval, filing--Appeal--Forms. [1981 c 302 § 23; 1971 c 81 § 82; 1969 c 65 § 1; 1967 c 180 § 3; 1943 c 131 § 3; 1933 c 173 § 3; Rem. Supp. 1943 § 3923-3. Formerly RCW 31.12.050, 31.12.060 and 31.12.070.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.080 Membership. [1981 c 81 § 3; 1980 c 41 § 1; 1943 c 131 § 4; 1933 c 173 § 4; Rem. Supp. 1943 § 3923-4.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.090 Savings--Loans--Investment in transaction of own business--Real property, leaseholds. [1980 c 41 § 2; 1959 c 138 § 1; 1943 c 131 § 5; 1933 c 173 § 5; Rem. Supp. 1943 § 3923-5.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.100 Bylaws--Contents. [1933 c 173 § 6; RRS § 3923-6.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.110 Amendment of bylaws. [1969 c 65 § 2; 1943 c 131 § 6; 1933 c 173 § 7; Rem. Supp. 1943 § 3923-7.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.120 Bylaws and amendments to be approved. [1943 c 131 § 7; 1933 c 173 § 8; Rem. Supp. 1943 § 3923-8.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.130 Capital--Limitation on deposits and shares--Withdrawal--Notice of withdrawal. [1981 c 81 § 4; 1980 c 41 § 3; 1953 c 48 § 1; 1947 c 213 § 1; 1943 c 131 § 8; 1933 c 173 § 9; Rem. Supp. 1947 § 3923-9.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.135 Deposits by individuals governed by chapter 30.22 RCW. [1981 c 192 § 24.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.140 Minors. [1981 c 192 § 26; 1943 c 131 § 9; 1933 c 173 § 10; Rem. Supp. 1943 § 3923-10.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.150 Fiscal year. [1933 c 173 § 1; RRS § 3923-11.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.160 Meetings--Voting rights. [1983 c 37 § 1; 1973 1st ex.s. c 8 § 2; 1967 c 180 § 4; 1953 c 48 § 2; 1943 c 131 § 10; 1933 c 173 § 12; Rem. Supp. 1943 § 3923-12.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.170 Directors--Qualifications--Number--Election--Terms. [1967 c 180 § 5; 1943 c 131 § 11; 1933 c 173 § 13; Rem. Supp. 1943 § 3923-13.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.180 Officers--Bonds--Credit and investment committees. [1983 c 37 § 2; 1973 1st ex.s. c 8 § 3; 1967 c 180 § 6; 1959 c 138 § 2; 1953 c 48 § 3; 1939 c 65 § 2; 1933 c 173 § 14; RRS § 3923-14.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.190 Powers and duties of directors. [1981 c 81 § 5; 1980 c 41 § 4; 1975 1st ex.s. c 222 § 1; 1973 1st ex.s. c 8 § 5; 1969 c 65 § 3; 1967 c 180 § 7; 1959 c 138 § 3; 1957 c 23 § 5; 1953 c 48 § 4; 1943 c 131 § 12; 1933 c 173 § 15; Rem. Supp. 1943 § 3923-15.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.200 Auditing committee--Elections--Terms--Powers and duties. [1975 1st ex.s. c 222 § 2; 1969 c 65 § 4; 1959 c 138 § 4; 1953 c 48 § 5; 1943 c 131 § 13; 1933 c 173 § 16; Rem. Supp. 1943 § 3923-16.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.205 Investment committee--Meetings--Authority. [1973 1st ex.s. c 8 § 4.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.210 Compensation of directors and treasurer--Loans to directors. [1975 1st ex.s. c 222 § 3; 1973 1st ex.s. c 8 § 6; 1957 c 23 § 6; 1943 c 131 § 14; 1933 c 173 § 17; Rem. Supp. 1943 § 3923-17.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.220 Guaranty fund. [1981 c 81 § 6; 1980 c 41 § 5; 1973 1st ex.s. c 8 § 7; 1969 c 65 § 5; 1967 c 180 § 8; 1943 c 131 § 15; 1933 c 173 § 18; Rem. Supp. 1943 § 3923-18.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.230 Reserve fund. [1967 c 180 § 9; 1943 c 131 § 16; 1933 c 173 § 19; Rem. Supp. 1943 § 3923-19.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.240 Credit committee--Powers and duties. [1983 c 37 § 3; 1975 1st ex.s. c 222 § 4; 1973 1st ex.s. c 8 § 8; 1969 c 65 § 6; 1957 c 23 § 7; 1943 c 131 § 17; 1933 c 173 § 21; Rem. Supp. 1943 § 3923-21.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.245 Loan officer--Powers. [1981 c 81 § 7; 1973 1st ex.s. c 8 § 9; 1969 c 65 § 7; 1967 c 180 § 10; 1959 c 138 § 5; 1957 c 23 § 8.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.250 Applications for loans. [1947 c 213 § 3; 1933 c 173 § 22; Rem. Supp. 1947 § 3923-22.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.260 Funds to be loaned, surplus to be deposited or invested--Banking, commercial accounts, prohibited. [1981 c 81 § 8; 1975 1st ex.s. c 222 § 5; 1973 1st ex.s. c 8 § 10; 1969 c 65 § 8; 1959 c 138 § 6; 1957 c 23 § 9; 1947 c 213 § 2; 1933 c 173 § 20; Rem. Supp. 1947 § 3923-20.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.270 Classes of loans--Preference. [1980 c 41 § 6; 1975 1st ex.s. c 222 § 6; 1973 1st ex.s. c 8 § 11; 1969 c 65 § 9; 1967 c 180 § 11; 1965 ex.s. c 38 § 1; 1957 c 23 § 11. Prior: 1953 c 48 § 6; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.280 Limits and conditions of personal loans. [1981 c 81 § 9; 1980 c 41 § 7; 1975 1st ex.s. c 222 § 7; 1973 1st ex.s. c 8 § 12; 1969 c 65 § 10; 1967 c 180 § 12; 1965 ex.s. c 38 § 2; 1959 c 138 § 7; 1957 c 23 § 12. Prior: 1953 c 48 § 7; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.290 Loans secured by real estate mortgages or contracts. [1981 c 81 § 10; 1973 1st ex.s. c 8 § 13; 1967 c 180 § 13; 1959 c 138 § 8; 1957 c 23 § 13. Prior: 1953 c 48 § 8; 1947 c 213 § 4, part; 1943 c 131 § 18, part; 1933 c 173 § 23, part; Rem. Supp. 1947 § 3923-23, part.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.300 Transfers to federal agencies. [1933 c 173 § 24; RRS § 3923-24.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.305 Deposits of deferred compensation--Applicability. [1980 c 41 § 9.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.310 Dividends. [1981 c 81 § 11; 1975 1st ex.s. c 222 § 8; 1943 c 131 § 19; 1933 c 173 § 25; Rem. Supp. 1943 § 3923-25.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.320 Reports--Examinations--Suspension of business--Communications. [1980 c 41 § 8; 1973 1st ex.s. c 8 § 14; 1947 c 213 § 5; 1943 c 131 § 20; 1933 c 173 § 26; Rem. Supp. 1947 § 3923-26.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.325 Examination reports and information--Confidential--Privileged--Penalty. [1983 c 37 § 4; 1977 ex.s. c 245 § 4.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.330 Expenses, limitations on. [1983 c 37 § 5; 1981 c 81 § 12; 1967 c 180 § 14; 1953 c 48 § 9; 1933 c 173 § 27; RRS § 3923-27.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.340 False statements and entries--Penalty. [1943 c 131 § 21; 1933 c 173 § 28; Rem. Supp. 1943 § 3923-28.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.350 Expulsion of members. [1933 c 173 § 29; RRS § 3923-29.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.360 Suspension of officers--Supervisor to administer and enforce chapter. [1971 c 81 § 83; 1967 c 180 § 15; 1953 c 48 § 10; 1943 c 131 § 23; 1933 c 173 § 31; Rem. Supp. 1943 § 3923-31.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.370 Mergers. [1943 c 131 § 24; 1933 c 173 § 32; Rem. Supp. 1943 § 3923-32.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.373 Additional powers--Powers conferred upon federal credit union on May 8, 1981. [1981 c 90 § 1.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.377 Additional powers--Powers conferred upon federal credit union--Authority of supervisor--Conditions. [1981 c 90 § 3.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.380 Taxation of credit unions. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 34); Rem. Supp. 1943 § 3923-34.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.390 Conversion of state to federal credit union. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 35); Rem. Supp. 1943 § 3923-35.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.400 Conversion of federal to state credit union. [1943 c 131 § 26 (adding to 1933 c 173 a new section, § 36); Rem. Supp. 1943 § 3923-36.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.405 Satellite facilities. Cross-reference section, decodified July, 1984.

31.12.410 Liquidation—Unclaimed funds, disposition of. [1943 c 131 § 22; 1933 c 173 § 30; Rem. Supp. 1943 § 3923–30. Formerly RCW 31.12.410 and 31.12.420.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.430 Penalty. [1943 c 131 § 25; 1933 c 173 § 34; RRS § 3923–34. Renumbered by 1943 c 131 § 25 as 1933 c 173 § 33; Rem. Supp. 1943 § 3923–33.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.440 Suspension or revocation of articles—Involuntary liquidation—Grounds. [1973 1st ex.s. c 8 § 15.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.450 Suspension or revocation of articles—Involuntary liquidation—Notice—Procedure. [1973 1st ex.s. c 8 § 16.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.460 Involuntary liquidation—Procedure. [1973 1st ex.s. c 8 § 17.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.470 Involuntary liquidation—Cancellation of articles. [1973 1st ex.s. c 8 § 18.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.480 Absorption of distressed credit union—Approval of pooling of assets and liabilities by liquidating agent. [1983 c 37 § 13.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.500 Notice of charges—Hearing—Cease and desist order. [1983 c 37 § 6.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.505 Temporary cease and desist order. [1983 c 37 § 7.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.510 Injunction setting aside, limiting, or suspending temporary cease and desist order. [1983 c 37 § 8.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.515 Injunction to enforce temporary cease and desist order. [1983 c 37 § 9.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.520 Administrative bearing—Decision—Orders—Judicial review of orders—Appellate review—Service of process. [1983 c 37 § 10.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.525 Enforcement of orders. [1983 c 37 § 11.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.530 Review of action of supervisor—Appeal. [1983 c 37 § 12.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.900 Severability—1973 1st ex.s. c 8. [1973 1st ex.s. c 8 § 19.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

31.12.901 Severability—1975 1st ex.s. c 222. [1975 1st ex.s. c 222 § 9.] Repealed by 1984 c 31 § 1, effective July 1, 1984.

Title 35

CITIES AND TOWNS

Chapter 35.20

MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

35.20.040 Appeals to superior court—Procedure. [1965 c 7 § 35.20.040. Prior: 1955 c 290 § 4.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.20.050 Criminal appeals—Commitment to city jail—Recognizance bond. [1965 c 7 § 35.20.050. Prior: 1955 c 290 § 5.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.20.060 Dismissal of appeal. [1965 c 7 § 35.20.060. Prior: 1955 c 290 § 6.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.20.070 Trial in superior court—Costs—Further appeal. [1971 c 81 § 88; 1965 c 7 § 35.20.070. Prior: 1955 c 290 § 7.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.20.080 Transfer of causes upon effective date of chapter. [1965 c 7 § 35.20.080. Prior: 1955 c 290 § 8.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.20.900 Construction of prior law. [1983 c 3 § 55; 1975 c 33 § 5; 1965 c 7 § 35.20.900. Prior: 1955 c 290 § 27.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

35.21.170 Liquor law violations—Annual report of. [1965 c 7 § 35.21.170. Prior: 1933 ex.s. c 62 § 81, part; RRS § 7306–81, part.] Repealed by 1984 c 258 § 131, effective July 1, 1984.

35.21.285 Special excise tax authorized—Hotel, motel, rooming house, trailer camp, etc., charges. [1982 1st ex.s. c 22 § 20.] Repealed by 1984 c 115 § 1.

Chapter 35.22

FIRST CLASS CITIES

35.22.420 Designation of police judge—Additional judge—Traffic cases segregated. [1965 ex.s. c 116 § 3; 1965 c 7 § 35.22.420. Prior: 1941 c 85 § 1; 1899 c 85 § 2; Rem. Supp. 1941 § 8992.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.430 Salary of police judge. [1965 c 7 § 35.22.430. Prior: 1899 c 85 § 7; RRS § 8997.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.440 Clerk for police judge. [1965 c 7 § 35.22.440. Prior: 1903 c 30 § 2; 1899 c 85 § 6; RRS § 8996.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.460 Jurisdiction of police judge. [1965 ex.s. c 116 § 4; 1965 c 7 § 35.22.460. Prior: 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993, part.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.480 Precedence of cases. [1965 ex.s. c 116 § 5; 1965 c 7 § 35.22.480. Prior: 1899 c 85 § 9; RRS § 8999.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.485 Change of venue. [1967 c 241 § 5.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.490 Criminal process. [1965 c 7 § 35.22.490. Prior: 1899 c 85 § 4; RRS § 8994.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.500 Prosecutions in name of city. [1965 c 7 § 35.22.500. Prior: 1899 c 85 § 5; RRS § 8995.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.510 Costs and fees. [1979 ex.s. c 136 § 26; 1965 c 7 § 35.22.510. Prior: 1899 c 85 § 8; RRS § 8998.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.520 Police judge pro tempore. [1965 c 7 § 35.22.520. Prior: 1953 c 60 § 1; 1899 c 85 § 1; RRS § 9000.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.530 Appeal from police court—Procedure. [1979 ex.s. c 136 § 27; 1965 c 7 § 35.22.530. Prior: (i) 1923 c 182 § 2, part; 1903 c 30 § 1, part; 1899 c 85 § 3, part; RRS § 8993. (ii) 1937 c 79 § 1; RRS § 8993–1.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.540 Dismissal of appeal—Effect. [1965 c 7 § 35.22.540. Prior: 1937 c 79 § 2; RRS § 8993–2.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.550 Bond on appeal—Transcript, etc. [1965 c 7 § 35.22.550. Prior: 1937 c 79 § 3; RRS § 8993–3.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

35.22.560 Trial in superior court—Costs—Further appeal. [1971 c 81 § 89; 1965 c 7 § 35.22.560. Prior: 1937 c 79 § 4; RRS § 8993–4.] Repealed by 1984 c 258 § 132, effective July 1, 1984.

Chapter 35.23
SECOND CLASS CITIES

35.23.590 Police court—Establishment. [1965 c 7 § 35.23.590. Prior: 1913 c 103 § 1; RRS § 9076.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.600 Jurisdiction of police judge. [1965 ex.s. c 116 § 8; 1965 c 7 § 35.23.600. Prior: 1913 c 103 § 2; RRS § 9077.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.610 Process. [1965 c 7 § 35.23.610. Prior: 1913 c 103 § 3; RRS § 9078.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.620 Prosecutions. [1967 c 241 § 7; 1965 c 7 § 35.23.620. Prior: 1913 c 103 § 4; RRS § 9079.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.625 Change of venue. [1967 c 241 § 6.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.630 Costs. [1965 c 7 § 35.23.630. Prior: 1913 c 103 § 5; RRS § 9080.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.640 Supplies—Reports. [1965 c 7 § 35.23.640. Prior: 1913 c 103 § 6; RRS § 9081.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.650 Police judge pro tempore. [1969 c 35 § 1; 1965 c 7 § 35.23.650. Prior: 1953 c 60 § 2; 1913 c 103 § 7; RRS § 9082.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.660 Qualifications of police judge—Election. [1965 c 7 § 35.23.660. Prior: 1913 c 103 § 8; RRS § 9083.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

35.23.670 Seal—Transcripts as evidence—Efficacy of process. [1965 c 7 § 35.23.670. Prior: 1890 p 176 § 99; RRS § 9084.] Repealed by 1984 c 258 § 133, effective July 1, 1984.

Chapter 35.24
THIRD CLASS CITIES

35.24.450 Police judge—Appointment—Bond—Compensation—Term—Removal. [1965 ex.s. c 116 § 11; 1965 c 94 § 1; 1965 c 7 § 35.24.450. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.24.460 Police judge—Jurisdiction. [1979 ex.s. c 136 § 29; 1965 ex.s. c 116 § 12; 1965 c 94 § 2; 1965 c 7 § 35.24.460. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.24.465 Police judge—Change of venue. [1967 c 241 § 8.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.24.470 Police judge—Review of decisions—Procedure. [1979 ex.s. c 136 § 30; 1965 ex.s. c 116 § 13; 1965 c 7 § 35.24.470. Prior: 1919 c 113 § 2, part; 1915 c 184 § 29, part; 1890 p 196 § 138; RRS § 9143, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.24.480 Police judge pro tempore. [1965 c 108 § 1.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

Chapter 35.27
TOWNS

35.27.520 Police justice—Appointment—Salary—Removal. [1969 c 28 § 1; 1965 ex.s. c 116 § 16; 1965 c 7 § 35.27.520. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.27.525 Police judge pro tempore. [1965 c 108 § 2.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.27.530 Police justice—Jurisdiction. [1979 ex.s. c 136 § 31; 1965 ex.s. c 116 § 17; 1965 c 7 § 35.27.530. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.27.535 Police justice—Change of venue. [1967 c 241 § 9.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

35.27.540 Police justice—Procedure—Review. [1979 ex.s. c 136 § 32; 1965 ex.s. c 116 § 18; 1965 c 7 § 35.27.540. Prior: 1921 c 70 § 1, part; 1890 p 214 § 174, part; RRS § 9192, part.] Repealed by 1984 c 258 § 134, effective July 1, 1984.

Chapter 35.37

FISCAL—CITIES UNDER 20,000 AND CITIES OTHER THAN FIRST CLASS—BONDS

35.37.060 Excess indebtedness—Election to authorize. [1965 c 7 § 35.37.060. Prior: 1951 c 65 § 1. Formerly: (i) 1891 c 128 § 3; RRS § 9540. (ii) 1911 c 31 § 1; RRS § 9541.] Repealed by 1984 c 186 § 70.

35.37.070 General indebtedness bonds—Issuance. [1965 c 7 § 35.37.070. Prior: 1891 c 128 § 4, part; RRS § 9542, part.] Repealed by 1984 c 186 § 70.

35.37.100 General indebtedness bonds—Sale. [1983 c 167 § 37; 1965 c 7 § 35.37.100. Prior: 1891 c 128 § 7; RRS § 9545.] Repealed by 1984 c 186 § 70.

Chapter 35.38

FISCAL—DEPOSITARIES

35.38.030 Cities and towns of less than 75,000 inhabitants—Designation of depositaries. [1973 c 126 § 2; 1969 ex.s. c 193 § 24; 1965 c 7 § 35.38.030. Prior: 1923 c 18 § 1; 1907 c 22 § 1; RRS § 5571.] Repealed by 1984 c 177 § 21.

35.38.041 Segregation of eligible securities as collateral. [1973 c 126 § 17.] Repealed by 1984 c 177 § 21.

Chapter 35.40

FISCAL—VALIDATION AND FUNDING OF DEBTS

35.40.010 Ratification and funding at same election. [1965 c 7 § 35.40.010. Prior: 1891 c 132 § 1; RRS § 9550.] Repealed by 1984 c 186 § 70.

35.40.020 Effect of vote to fund validated indebtedness. [1965 c 7 § 35.40.020. Prior: 1891 c 132 § 2; RRS § 9551.] Repealed by 1984 c 186 § 70.

35.40.040 Ratification and funding after consolidation or annexation—Effect of vote to fund validated indebtedness. [1965 c 7 § 35.40.040. Prior: 1893 c 58 § 2; RRS § 9557.] Repealed by 1984 c 186 § 70.

35.40.050 Ratification and funding after consolidation or annexation—Conduct of election. [1965 c 7 § 35.40.050. Prior: 1893 c 58 § 3; RRS § 9558.] Repealed by 1984 c 186 § 70.

Chapter 35.61

METROPOLITAN PARK DISTRICTS

35.61.160 Park district bonds—Issuance—Sale. [1983 c 167 § 53; 1983 c 61 § 2; 1965 c 7 § 35.61.160. Prior: 1943 c 264 § 8; Rem. Supp. 1943 § 6741-8; prior: 1907 c 98 § 8; RRS § 6727.] Repealed by 1984 c 186 § 70.

35.61.170 Park district bonds—Terms—Denominations—Form. [1983 c 167 § 54; 1970 ex.s. c 56 § 41; 1969 ex.s. c 232 § 19; 1965 c 7 § 35.61.170. Prior: (i) 1943 c 264 § 9; Rem. Supp. 1943 § 6741-9; prior: 1909 c 131 § 3; 1907 c 98 § 9; RRS § 6728. (ii) 1943 c 264 § 10, part; Rem. Supp. 1943 § 6741-10, part; prior: 1909 c 131 § 4, part; 1907 c 98 § 10; RRS § 6729, part.] Repealed by 1984 c 186 § 70.

Chapter 35.67

SEWERAGE SYSTEMS—REFUSE COLLECTION AND DISPOSAL

35.67.080 General indebtedness bonds—Terms—Denominations. [1983 c 167 § 57; 1970 ex.s. c 56 § 42; 1969 ex.s. c 232 § 20; 1965 c 7 § 35.67.080. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.] Repealed by 1984 c 186 § 70.

35.67.090 General indebtedness bonds—Signatures—Form. [1983 c 167 § 58; 1965 c 7 § 35.67.090. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.] Repealed by 1984 c 186 § 70.

35.67.100 General indebtedness bonds—Sale of. [1965 c 7 § 35.67-.100. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.] Repealed by 1984 c 186 § 70.

Title 35A OPTIONAL MUNICIPAL CODE

Chapter 35A.20

MUNICIPAL COURTS OR POLICE COURTS IN CODE CITIES (See chapters 3.46 and 3.50 RCW)

35A.20.010 Law governing municipal courts or police courts. [1967 ex.s. c 119 § 35A.20.010.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.020 Police judge or municipal judge—Term—Compensation bond. [1967 ex.s. c 119 § 35A.20.020.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.030 Additional judge—Traffic cases. [1967 ex.s. c 119 § 35A.20.030.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.040 Jurisdiction of police judge. [1979 ex.s. c 136 § 33; 1967 ex.s. c 119 § 35A.20.040.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.050 Precedence of cases—No change of venue. [1967 ex.s. c 119 § 35A.20.050.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.060 Criminal process. [1967 ex.s. c 119 § 35A.20.060.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.070 Prosecutions in name of city. [1967 ex.s. c 119 § 35A.20.070.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.080 Costs. [1979 ex.s. c 136 § 34; 1967 ex.s. c 119 § 35A.20.080.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.090 Procedure. [1967 ex.s. c 119 § 35A.20.090.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.100 Police judge pro tempore. [1967 ex.s. c 119 § 35A.20.100.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.110 Staff of court—Supplies. [1967 ex.s. c 119 § 35A.20.110.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.120 Annual report of liquor law violations. [1967 ex.s. c 119 § 35A.20.120.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.130 List for petit jury. [1967 ex.s. c 119 § 35A.20.130.] Repealed by 1984 c 258 § 135, effective July 1, 1984.

35A.20.150 Actions by and against code cities. [1983 c 3 § 58; 1967 ex.s. c 119 § 35A.20.150.] Recodified as RCW 35A.21.195 pursuant to 1984 c 258 § 129, effective July 1, 1984.

Chapter 35A.40

FISCAL PROVISIONS APPLICABLE TO CODE CITIES

35A.40.040 Fiscal—Depositaries—Provisions of general law applicable. [1983 c 3 § 63; 1967 ex.s. c 119 § 35A.40.040.] Repealed by 1984 c 177 § 21.

Title 36 COUNTIES

Chapter 36.18

FEES OF COUNTY OFFICERS

36.18.026 Allocation of increase in filing fees by 1977 ex.s. c 107. [1977 ex.s. c 107 § 2.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

36.18.027 Transmittal of portion of filing fees to general fund. [1981 c 330 § 6; 1980 c 70 § 2.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

Chapter 36.48

DEPOSITARIES

36.48.020 Segregation of eligible securities. [1973 c 126 § 6; 1969 ex.s. c 193 § 28; 1967 c 132 § 3; 1963 c 4 § 36.48.020. Prior: 1945 c 73 § 1; 1933 ex.s. c 45 § 3; 1931 c 87 § 3; 1909 c 15 § 1; 1907 c 51 § 2; Rem. Supp. 1945 § 5563.] Repealed by 1984 c 177 § 21.

Chapter 36.62

HOSPITALS

36.62.020 Approval of board of health—Buildings separate from almshouses and infirmaries. [1963 c 4 § 36.62.020. Prior: 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.] Repealed by 1984 c 26 § 23.

36.62.080 Sale of bonds—Price. [1983 c 167 § 73; 1963 c 4 § 36.62.080. Prior: 1925 ex.s. c 174 § 7; RRS § 6090-7.] Repealed by 1984 c 186 § 70.

36.62.220 General superintendent for hospitals having two hundred or more beds—Removal. [1963 c 4 § 36.62.220. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.] Repealed by 1984 c 26 § 23.

36.62.240 Inspection of hospitals having two hundred or more beds. [1979 c 141 § 44; 1963 c 4 § 36.62.240. Prior: 1931 c 139 § 10; RRS § 6090-18.] Repealed by 1984 c 26 § 23.

36.62.281 Payment and advances from department of social and health services—Reimbursement. [1971 ex.s. c 277 § 3.] Repealed by 1984 c 26 § 23.

Chapter 36.67

LIMITATION OF INDEBTEDNESS—COUNTY BONDS

36.67.030 Negotiable bonds may be issued. [1983 c 167 § 74; 1983 c 3 § 79; 1963 c 4 § 36.67.030. Prior: 1890 p 38 § 3; RRS § 5577.] Repealed by 1984 c 186 § 70.

36.67.040 Content of bonds—Form. [1983 c 167 § 75; 1981 c 156 § 10; 1980 c 145 § 1; 1969 c 142 § 5; 1967 c 107 § 3; 1963 c 4 § 36.67.040. Prior: 1890 p 38 § 4; RRS § 5578.] Repealed by 1984 c 186 § 70.

36.67.050 Bonds may be exchanged for warrants or sold. [1983 c 167 § 76; 1963 c 4 § 36.67.050. Prior: 1890 p 39 § 5; RRS § 5579.] Repealed by 1984 c 186 § 70.

Title 38

MILITIA AND MILITARY AFFAIRS

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

38.12.090 Eligibility for staff assignment. [1943 c 130 § 23; Rem. Supp. 1943 § 8603-23. Prior: 1917 c 107 § 16; 1909 c 134 § 31, part; 1895 c 108 § 42, part.] Repealed by 1984 c 198 § 6.

Chapter 38.24

CLAIMS AND COMPENSATION

38.24.030 Transportation and subsistence. [1943 c 130 § 51; Rem. Supp. 1943 § 8603-51. Prior: 1913 c 66 § 11; 1909 c 134 § 58; 1895 c 108 § 89, part.] Repealed by 1984 c 198 § 6.

38.24.040 Allowances for incidental expenses. [1943 c 130 § 50; Rem. Supp. 1943 § 8603-50. Prior: 1925 c 28 § 2, part; 1919 c 137 § 1, part; 1917 c 107 § 37, part; 1915 c 47 § 1, part; 1913 c 66 § 10, part; 1909 c 134 § 57, part; 1907 c 122 § 5, part; 1903 c 155 § 13, part; 1901 c 78 § 11, part; 1895 c 108 § 89, part.] Repealed by 1984 c 198 § 6.

Chapter 38.52

EMERGENCY MANAGEMENT
(Formerly: Emergency services)

38.52.006 Succession and vesting of powers, duties, and functions. [1972 ex.s. c 6 § 2.] Repealed by 1984 c 38 § 45.

38.52.060 Mobile support units. [1974 ex.s. c 171 § 8; 1951 c 178 § 7.] Repealed by 1984 c 38 § 45.

38.52.130 Loyalty oath required. [1974 ex.s. c 171 § 15; 1953 c 145 § 2; 1951 c 178 § 15.] Repealed by 1984 c 38 § 45.

Title 39

**PUBLIC CONTRACTS AND
INDEBTEDNESS**

Chapter 39.44

BONDS--FORM, TERMS OF SALE, PAYMENT, ETC.

39.44.010 General obligation bonds--Form, terms, interest rate. [1983 c 167 § 105; 1965 ex.s. c 74 § 1; 1961 c 141 § 1; 1923 c 151 § 1; RRS § 5583-1.] Repealed by 1984 c 186 § 70.

39.44.011 Denominations. [1965 ex.s. c 74 § 4.] Repealed by 1984 c 186 § 70.

39.44.020 Tax levy for interest and principal. [1975 1st ex.s. c 188 § 6; 1965 ex.s. c 74 § 2; 1923 c 151 § 2; RRS § 5583-2.] Repealed by 1984 c 186 § 70.

39.44.030 Effective rate of interest--Sale--Notice--Bids. [1983 c 167 § 106; 1982 c 216 § 11; 1981 c 156 § 14; 1970 ex.s. c 56 § 58; 1969 ex.s. c 232 § 93; 1965 ex.s. c 74 § 3; 1961 c 141 § 2; 1923 c 151 § 3; RRS § 5583-3. Formerly RCW 39.44.030 through 39.44.050.] Repealed by 1984 c 186 § 70.

39.44.060 Return of deposits. [1923 c 151 § 4; RRS § 5583-4.] Repealed by 1984 c 186 § 70.

39.44.080 Revenue bonds of utility excepted. [1923 c 151 § 6; RRS § 5583-6.] Repealed by 1984 c 186 § 70.

39.44.090 Printing statute or ordinance on bonds dispensed with. [1939 c 180 § 1; RRS § 5591-1.] Repealed by 1984 c 186 § 70.

Chapter 39.52

**FUNDING INDEBTEDNESS IN COUNTIES, CITIES AND
TOWNS**

39.52.030 Bond issue--Notice--Publication. [1983 c 167 § 114; 1909 c 204 § 1; 1901 c 54 § 1; 1895 c 170 § 3; RRS § 5620. FORMER PART OF SECTION: 1895 c 170 § 4 now codified as RCW 39.52.035.] Repealed by 1984 c 186 § 70.

Title 41

**PUBLIC EMPLOYMENT, CIVIL SERVICE
AND PENSIONS**

Chapter 41.04

GENERAL PROVISIONS

41.04.345 Payment for accrued vacation leave prohibited--Exceptions. [1982 1st ex.s. c 51 § 1.] Repealed by 1984 c 184 § 21.

Chapter 41.32

TEACHERS' RETIREMENT

41.32.410 Expense fund--Service charges. [1982 1st ex.s. c 52 § 12; 1969 ex.s. c 150 § 13; 1963 ex.s. c 14 § 12; 1955 c 274 § 19; 1947 c 80 § 41; Rem. Supp. 1947 § 4995-60. Prior: 1941 c 97 § 6, part; 1939 c 86 § 6; 1937 c 221 § 7, part; Rem. Supp. 1941 § 4995-7, part.] Repealed by 1984 c 236 § 4, effective September 1, 1985.

41.32.4985 Employer liable for extra pension costs attributable to compensation in excess of average certificated salary increases. [1982 1st ex.s. c 10 § 2.] Repealed by 1984 c 184 § 2.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

41.40.187 Employer liable for extra pension costs attributable to compensation in excess of average percentage general salary increases. [1982 1st ex.s. c 52 § 34.] Repealed by 1984 c 184 § 2.

Title 43

STATE GOVERNMENT--EXECUTIVE

Chapter 43.06

GOVERNOR

43.06.300 Governor's council on criminal justice created--Membership--Travel expense reimbursement. [1981 c 213 § 9; 1979 c 79 § 1.] Repealed by 1984 c 30 § 1.

43.06.310 Governor's council on criminal justice--Purposes. [1979 c 79 § 2.] Repealed by 1984 c 30 § 1.

43.06.320 Division of criminal justice created--Executive director--Officers, employees, and consultants--Staff. [1979 c 79 § 3.] Repealed by 1984 c 30 § 1.

43.06.330 Division of criminal justice--Powers and duties. [1979 c 79 § 4.] Repealed by 1984 c 30 § 1.

43.06.340 Criminal justice planning agency, governor's council on criminal justice, division of criminal justice--Termination date. [1979 c 79 § 5.] Repealed by 1984 c 30 § 1.

Chapter 43.17

**ADMINISTRATIVE DEPARTMENTS AND AGENCIES--
GENERAL PROVISIONS**

43.17.220 Findings--Agencies to establish goals and objectives--Reports. [1983 c 306 § 1.] Repealed by 1984 c 247 § 4. Later enactment, see RCW 43.88.090.

Chapter 43.31

**DEPARTMENT OF COMMERCE AND ECONOMIC
DEVELOPMENT**

43.31.200 Local and state planning--Authorized studies. [1974 ex.s. c 171 § 42; 1965 c 8 § 43.31.200. Prior: 1963 c 161 § 1.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.31.210 Local and state planning--Coordinating and advisory services--State comprehensive plan--Personnel. [1965 c 8 § 43.31.210. Prior: 1963 c 161 § 2.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.31.220 Local and state planning--Aid from federal and local government--Rules and regulations. [1965 c 8 § 43.31.220. Prior: 1963 c 161 § 3.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.31.230 Local and state planning--Powers conferred by RCW 43.31.210 and 43.31.220 are supplemental. [1965 c 8 § 43.31.230. Prior: 1963 c 161 § 4.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

Chapter 43.63A

DEPARTMENT OF COMMUNITY DEVELOPMENT
(Formerly: Planning and community affairs)

43.63A.010 Purpose. [1967 c 74 § 1.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.63A.070 Planning functions and responsibilities. [1979 c 151 § 132; 1977 ex.s. c 151 § 28; 1967 c 74 § 7.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.63A.080 Community affairs functions and responsibilities. [1977 c 75 § 63; 1967 c 74 § 8.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

43.63A.110 Comprehensive plans of counties, cities, municipal corporations, governmental conference or council, or regional planning commission—Filing with planning and community affairs agency—Advisory recommendations. [1967 c 74 § 11.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

Chapter 43.85

STATE DEPOSITARIES

43.85.020 Bank includes trust company. [1965 c 8 § 43.85.020. Prior: 1907 c 37 § 7; RRS § 5554.] Repealed by 1984 c 177 § 21.

43.85.270 Banks claiming exemption from sales, use or ad valorem taxes—Construction as to existing contracts or agreements. [1969 ex.s. c 230 § 9.] Repealed by 1984 c 177 § 21.

Chapter 43.101

CRIMINAL JUSTICE TRAINING COMMISSION—EDUCATION AND TRAINING STANDARDS BOARDS

43.101.210 Criminal justice training costs—Assessments on bail forfeitures and certain penalties—Criminal justice training account created. [1981 c 127 § 1; 1981 c 4 § 8; 1979 ex.s. c 164 § 1; 1977 ex.s. c 212 § 3.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

Chapter 43.121

COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

(Formerly: Council on child abuse and neglect)

43.121.900 Expiration of chapter. [1982 c 4 § 11.] Repealed by 1984 c 261 § 7.

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

43.131.251 Department of emergency services—Termination. [1982 c 223 § 4.] Repealed by 1984 c 38 § 45.

43.131.252 Department of emergency services—Repeal. [1982 c 223 § 8.] Repealed by 1984 c 38 § 45.

Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

43.160.075 List of unfunded community development projects—Criteria. [1983 1st ex.s. c 60 § 5.] Repealed by 1984 c 257 § 15.

Chapter 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY PROGRAM

43.170.900 Expiration of project and chapter. [1982 c 44 § 7.] Repealed by 1984 c 79 § 2.

Title 46

MOTOR VEHICLES

Chapter 46.16

VEHICLE LICENSES

46.16.215 Renewal, payment of parking fines required—Distribution of fines, penalties, and surcharges—Change of registered owner—Statement of unpaid parking fines to registered owners. [1982 1st ex.s. c 14 § 1.] Repealed by 1984 c 224 § 4, effective July 1, 1984.

46.16.380 License plates, cards, and decals for certain disabled persons—Qualifications—Transfer of vehicle—Fees—Rules—Violations, penalties and defense. [1979 ex.s. c 192 § 6. Prior: 1979 ex.s. c 136 § 50; 1979 ex.s. c 27 § 1; 1979 ex.s. c 26 § 1; 1979 ex.s. c 7 § 1; 1975-'76 2nd ex.s. c 102 § 1; 1975 1st ex.s. c 297 § 1; 1967 c 32 § 26; 1961 c 128 § 1.] Repealed by 1984 c 154 § 8.

Chapter 46.61

RULES OF THE ROAD

46.61.518 Penalty assessments—Disposition of gross proceeds. [1974 ex.s. c 130 § 3.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

46.61.580 Special parking privileges for certain disabled persons—Display of card, decal, or special license plate—Prohibited areas. [1979 ex.s. c 27 § 2; 1975-'76 2nd ex.s. c 102 § 2; 1975 1st ex.s. c 297 § 2; 1961 c 128 § 2. Formerly RCW 46.48.340.] Repealed by 1984 c 154 § 8.

Chapter 46.68

DISPOSITION OF REVENUE

46.68.050 Disposition of fines and forfeitures for violations. [1969 ex.s. c 199 § 23; 1969 c 99 § 10; 1961 c 12 § 46.68.050. Prior: (i) 1949 c 75 § 4; 1937 c 189 § 151; Rem. Supp. 1949 § 6360-151. (ii) 1949 c 75 § 3; 1937 c 188 § 83; Rem. Supp. 1949 § 6312-83; 1927 c 309 § 54; RRS § 6362-54.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

Chapter 46.81

TRAFFIC SAFETY EDUCATION COURSES

46.81.030 Fiscal support—Penalty assessments in addition to penalties, fines, and bail forfeitures. [1979 ex.s. c 136 § 97; 1971 ex.s. c 26 § 1; 1970 ex.s. c 9 § 2. Prior: 1969 ex.s. c 218 § 3; 1969 ex.s. c 199 § 24; 1967 c 167 § 11; 1963 c 39 § 4.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

46.81.040 Fiscal support—Bail deposits to include penalty assessment. [1963 c 39 § 5.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

46.81.050 Fiscal support—Disposition of revenue. [1970 ex.s. c 9 § 3. Prior: 1969 ex.s. c 218 § 4; 1969 ex.s. c 199 § 25; 1963 c 39 § 6.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

46.81.060 Fiscal support—Traffic safety education account. [1969 ex.s. c 218 § 5; 1963 c 39 § 7.] Repealed by 1984 c 258 § 339, effective July 1, 1985.

Title 47

PUBLIC HIGHWAYS AND TRANSPORTATION

Chapter 47.08

HIGHWAY FUNDS

47.08.030 Allocation of fines and forfeitures. [1969 ex.s. c 199 § 26; 1961 c 13 § 47.08.030. Prior: 1949 c 75 § 1; 1937 c 53 § 96; Rem. Supp. 1949 § 6400-96.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 43.08.250.

Chapter 47.17

STATE HIGHWAY ROUTES

47.17.790 State route No. 540. [1971 ex.s. c 73 § 21; 1970 ex.s. c 51 § 159.] Repealed by 1984 c 197 § 5.

Transfer to Whatcom county: "The state highway known as state route number 540, beginning at a junction with a Whatcom county road known as Haxton Way in the vicinity of the easterly boundary of Range 1 E. W.M., thence easterly to a junction with state route number 5 northwest of Bellingham, is transferred to Whatcom county as a county road." [1984 c 197 § 4.]

Chapter 47.20

MISCELLANEOUS PROJECTS

47.20.649 Interstate 90 corridor—Public hearings, when required. [1975 1st ex.s. c 272 § 3.] Repealed by 1984 c 7 § 388.

47.20.651 Interstate 90 corridor—Final environmental impact statement, when required. [1975 1st ex.s. c 272 § 4.] Repealed by 1984 c 7 § 388.

Chapter 47.26

DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

47.26.280 Apportionment and allocation of urban arterial account funds for period beginning July 1, 1967, and ending July 1, 1969. [1969 ex.s. c 171 § 5; 1967 ex.s. c 83 § 34.] Repealed by 1984 c 7 § 388.

Chapter 47.56

STATE TOLL BRIDGES, TUNNELS, AND FERRIES

47.56.027 Rules, general powers of authority—Executive secretary. [1961 c 278 § 6.] Repealed by 1984 c 7 § 388.

47.56.029 Authority's resolutions, motions—Notice of meetings—Quorum. [1961 c 278 § 7.] Repealed by 1984 c 7 § 388.

47.56.260 Ferry service at Tacoma Narrows—Ratification. [1961 c 13 § 47.56.260. Prior: 1941 c 9 § 1; Rem. Supp. 1941 § 6524–3b. FORMER PART OF SECTION: 1941 c 9 § 2 now codified as RCW 47.56.261.] Decodified pursuant to 1984 c 7 § 387.

47.56.261 Ferry service at Tacoma Narrows—Authorization. [1961 c 13 § 47.56.261. Prior: 1941 c 9 § 2; Rem. Supp. 1941 § 6524–3c. Formerly RCW 47.56.260, part.] Decodified pursuant to 1984 c 7 § 387.

47.56.274 Fox Island toll bridge—Appropriation—Not available until Pierce county assumes obligations. [1961 c 13 § 47.56.274. Prior: 1957 c 270 § 2.] Decodified pursuant to 1984 c 7 § 387.

47.56.275 Fox Island toll bridge—Retirement of revenue bonds—Deposit of appropriation. [1961 c 13 § 47.56.275. Prior: 1957 c 270 § 3.] Decodified pursuant to 1984 c 7 § 387.

47.56.276 Fox Island toll bridge—Tacoma Narrows toll bridge county aid fund—Assignment—Disposition. [1961 c 13 § 47.56.276. Prior: 1957 c 270 § 4.] Decodified pursuant to 1984 c 7 § 387.

47.56.277 Fox Island toll bridge—Continuation of tolls to repay funds—Revision, readjustment of tolls, traffic classification. [1961 c 13 § 47.56.277. Prior: 1957 c 270 § 5.] Decodified pursuant to 1984 c 7 § 387.

47.56.278 Fox Island toll bridge—Disposition of various funds—Accounts—Audit—Toll operations and maintenance of bridge. [1961 c 13 § 47.56.278. Prior: 1957 c 270 § 6.] Decodified pursuant to 1984 c 7 § 387.

47.56.281 Additional Lake Washington bridge (1957 Act)—Approaches—Site. [1961 c 13 § 47.56.281. Prior: 1957 c 266 § 1; prior: 1953 c 192 § 1.] Decodified pursuant to 1984 c 7 § 387.

47.56.283 Additional Lake Washington bridge (1957 Act)—Imposition of tolls on existing and additional bridges. [1961 c 13 § 47.56.283. Prior: 1957 c 266 § 3.] Decodified pursuant to 1984 c 7 § 387.

47.56.285 Additional Lake Washington bridge (1957 Act)—Appropriation—Repayment from sale of bonds. [1961 c 13 § 47.56.285. Prior: 1957 c 266 § 5.] Decodified pursuant to 1984 c 7 § 387.

47.56.570 Naches Pass tunnel—Study—May be part of highway system or toll project—Description. [1961 c 13 § 47.56.570. Prior: 1959 c 292 § 1.] Repealed by 1984 c 7 § 388.

Chapter 47.61

ACQUISITION OF NEW FERRY VESSELS PURSUANT TO URBAN MASS TRANSPORTATION ACT OF 1964

47.61.120 Bonds to provide matching funds—Appropriation from motor vehicle fund. [1965 ex.s. c 56 § 12.] Decodified pursuant to 1984 c 7 § 387.

Chapter 47.65

PUGET SOUND TRANSPORTATION SYSTEM—EMPLOYEES' RETIREMENT

47.65.060 Employees to be members of state employees' retirement system—Employer's contribution—Former service credit. [1961 c 13 §

47.65.060. Prior: 1957 c 271 § 6.] Decodified pursuant to 1984 c 7 § 387.

47.65.070 Federal social security. Cross-reference section, decodified.

47.65.080 Employer's contribution for former service. [1961 c 13 § 47.65.080. Prior: 1957 c 271 § 8.] Decodified pursuant to 1984 c 7 § 387.

47.65.091 Appropriation—1959 ex.s. c 4. [1961 c 13 § 47.65.091. Prior: 1959 ex.s. c 4 § 3.] Repealed by 1984 c 7 § 388.

Chapter 47.68

AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

47.68.910 Short title—1947 c 165. [1947 c 165 § 37. Formerly RCW 14.04.910.] Repealed by 1984 c 7 § 388.

Title 48

INSURANCE

Chapter 48.21

GROUP AND BLANKET DISABILITY INSURANCE

48.21.210 Conversion rights of former employees, former spouses and dependents. [1980 c 10 § 2.] Repealed by 1984 c 190 § 11. Later enactment, see RCW 48.21.250 through 48.21.270.

Chapter 48.44

HEALTH CARE SERVICES

48.44.280 Conversion rights of former employees, former spouses and dependents. [1980 c 10 § 3.] Repealed by 1984 c 190 § 11. Later enactment, see RCW 48.44.360 through 48.44.380.

Chapter 48.46

HEALTH MAINTENANCE ORGANIZATIONS

48.46.065 Conversion rights of former employees, spouses, and dependents. [1980 c 10 § 4.] Repealed by 1984 c 190 § 11. Later enactment, see RCW 48.46.440 through 48.46.460.

Title 50

UNEMPLOYMENT COMPENSATION

Chapter 50.29

EMPLOYER EXPERIENCE RATING

50.29.060 Predecessor and successor employer contribution rates. [1983 1st ex.s. c 23 § 18; 1973 1st ex.s. c 158 § 13; 1970 ex.s. c 2 § 15.] Repealed by 1984 c 205 § 13, effective January 1, 1985. Later enactment, see RCW 50.29.062.

Title 52

FIRE PROTECTION DISTRICTS

Chapter 52.04

ANNEXATION

(Formerly: Formation, dissolution, and annexation)

52.04.020 Districts authorized. [1984 c 230 § 1; 1979 ex.s. c 179 § 5; 1959 c 237 § 1; 1947 c 254 § 1; 1945 c 162 § 1; 1943 c 121 § 1; 1941 c 70 § 1; 1939 c 34 § 1; Rem. Supp. 5654–101.] Recodified as RCW 52.02.020 pursuant to 1984 c 230 § 89.

52.04.030 Petition. [1984 c 230 § 2; 1963 ex.s. c 13 § 1; 1947 c 254 § 2; 1939 c 34 § 2; Rem. Supp. 1947 § 5654–102. Prior: 1933 c 60 § 2.] Recodified as RCW 52.02.030 pursuant to 1984 c 230 § 89.

52.04.040 Hearing. [1984 c 230 § 3; 1939 c 34 § 3; RRS § 5654-103. Prior: 1933 c 60 § 2.] Recodified as RCW 52.02.040 pursuant to 1984 c 230 § 89.

52.04.050 Notice—Publication and posting. [1984 c 230 § 4; 1939 c 34 § 4; RRS § 5654-104. Prior: 1933 c 60 § 2.] Recodified as RCW 52.02.050 pursuant to 1984 c 230 § 89.

52.04.060 Hearing—Inclusion and exclusion of land. [1984 c 230 § 5; 1947 c 254 § 3; 1939 c 34 § 5; Rem. Supp. 1947 § 5654-105. Prior: 1933 c 60 § 3.] Recodified as RCW 52.02.060 pursuant to 1984 c 230 § 89.

52.04.070 Action on petition—Resolution—Candidates for first commissioners. [1984 c 230 § 6; 1939 c 34 § 6; RRS § 5654-106. Prior: 1933 c 60 § 3.] Recodified as RCW 52.02.070 pursuant to 1984 c 230 § 89.

52.04.080 Election. [1984 c 230 § 7; 1939 c 34 § 7; RRS § 5654-107.] Recodified as RCW 52.02.080 pursuant to 1984 c 230 § 89.

52.04.090 Ballots. [1984 c 230 § 8; 1939 c 34 § 8; RRS § 5654-108. Prior: 1933 ex.s. c 60 § 3.] Recodified as RCW 52.02.090 pursuant to 1984 c 230 § 89.

52.04.100 Notice of canvass of returns. [1984 c 230 § 9; 1939 c 34 § 9; RRS § 5654-109.] Recodified as RCW 52.02.100 pursuant to 1984 c 230 § 89.

52.04.110 Declaration of result of election. [1984 c 230 § 10; 1941 c 70 § 2; 1939 c 34 § 10; Rem. Supp. 1941 § 5654-110.] Recodified as RCW 52.02.110 pursuant to 1984 c 230 § 89.

52.04.120 Resolution to be recorded. [1984 c 230 § 11; 1939 c 34 § 11; RRS § 5654-111.] Recodified as RCW 52.02.120 pursuant to 1984 c 230 § 89.

52.04.130 When proposition fails to carry. [1984 c 230 § 12; 1947 c 254 § 4; 1939 c 34 § 12; Rem. Supp. 1947 § 5654-112.] Recodified as RCW 52.02.130 pursuant to 1984 c 230 § 89.

52.04.140 Appeal. [1984 c 230 § 13; 1939 c 34 § 13; RRS § 5654-113.] Recodified as RCW 52.02.140 pursuant to 1984 c 230 § 89.

52.04.150 Organization conclusive. [1984 c 230 § 14; 1939 c 34 § 14; RRS § 5654-114.] Recodified as RCW 52.02.150 pursuant to 1984 c 230 § 89.

52.04.155 Dissolution—Election method. [1984 c 230 § 15; 1939 c 34 § 46; RRS § 5654-146.] Recodified as RCW 52.10.010 pursuant to 1984 c 230 § 89.

52.04.160 Disincorporation of district located in class A or AA county and inactive for five years. Cross-reference section, decodified June, 1984.

52.04.170 Annexation of contiguous city or town—Procedure. [1979 ex.s. c 179 § 1.] Recodified as RCW 52.04.061 pursuant to 1984 c 230 § 89.

52.04.180 Annexation of contiguous city or town—Election. [1984 c 230 § 16; 1979 ex.s. c 179 § 2.] Recodified as RCW 52.04.071 pursuant to 1984 c 230 § 89.

52.04.190 Annexation of contiguous city or town—Annual tax levies—Limitations. [1984 c 230 § 17; 1979 ex.s. c 179 § 4.] Recodified as RCW 52.04.081 pursuant to 1984 c 230 § 89.

52.04.200 Withdrawal by annexed city or town—Election. [1979 ex.s. c 179 § 3.] Recodified as RCW 52.04.101 pursuant to 1984 c 230 § 89.

Chapter 52.08

WITHDRAWAL (Formerly: Powers)

52.08.010 Status. [1984 c 230 § 18; 1967 c 164 § 5; 1939 c 34 § 15; RRS § 5654-115.] Recodified as RCW 52.12.011 pursuant to 1984 c 230 § 89.

52.08.020 General powers. [1984 c 230 § 19; 1939 c 34 § 16; RRS § 5654-116.] Recodified as RCW 52.12.021 pursuant to 1984 c 230 § 89.

52.08.030 Specific powers—Equipment—Property—Service agreements—Joint operations—Association—General authority—Life insurance. [1973 1st ex.s. c 195 § 48; 1963 c 101 § 1; 1959 c 237 § 2; 1947 c 254 § 6; 1941 c 70 § 4; 1939 c 34 § 20; Rem. Supp. 1947 § 5654-120.] Recodified as RCW 52.12.031 pursuant to 1984 c 230 § 89.

52.08.040 Eminent domain. [1984 c 230 § 20; 1939 c 34 § 18; RRS § 5654-118.] Recodified as RCW 52.12.041 pursuant to 1984 c 230 § 89.

52.08.050 Condemnation proceedings. [1984 c 230 § 21; 1939 c 34 § 19; RRS § 5654-119.] Recodified as RCW 52.12.051 pursuant to 1984 c 230 § 89.

52.08.060 Annexation of territory by election method—Procedure—Indebtedness—Hearing and election dispensed with, when. [1984 c 230 § 22; 1973 1st ex.s. c 195 § 49; 1965 ex.s. c 18 § 1; 1959 c 237 § 3; 1947 c 254 § 5; 1945 c 162 § 2; 1941 c 70 § 3; Rem. Supp. 1947 § 5654-116a.] Recodified as RCW 52.04.011 pursuant to 1984 c 230 § 89.

52.08.065 Annexation by petition method—Alternative to election method. [1984 c 230 § 23; 1965 c 59 § 1.] Recodified as RCW 52.04.021 pursuant to 1984 c 230 § 89.

52.08.066 Annexation by petition method—Petition—Signers—Content. [1984 c 230 § 24; 1965 c 59 § 2.] Recodified as RCW 52.04.031 pursuant to 1984 c 230 § 89.

52.08.067 Annexation by petition method—Hearing—Notice. [1984 c 230 § 25; 1965 c 59 § 3.] Recodified as RCW 52.04.041 pursuant to 1984 c 230 § 89.

52.08.068 Annexation by petition method—Resolution providing for annexation. [1984 c 230 § 26; 1965 c 59 § 4.] Recodified as RCW 52.04.051 pursuant to 1984 c 230 § 89.

52.08.080 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. [1984 c 230 § 27; 1970 ex.s. c 42 § 29; 1965 c 21 § 1.] Recodified as RCW 52.12.061 pursuant to 1984 c 230 § 89.

52.08.090 Liability insurance for officials and employees. [1984 c 230 § 28; 1973 c 125 § 3.] Recodified as RCW 52.12.071 pursuant to 1984 c 230 § 89.

Chapter 52.12

POWERS—BURNING PERMITS (Formerly: Commissioners)

52.12.010 Number—Qualifications—Insurance—Compensation—Service as volunteer fireman—Waiver of compensation—Terms of first commissioners. [1980 c 27 § 1; 1979 ex.s. c 126 § 31; 1973 c 86 § 1; 1971 ex.s. c 242 § 2; 1969 ex.s. c 67 § 1; 1967 c 51 § 1; 1965 c 112 § 1; 1959 c 237 § 4; 1957 c 238 § 1; 1945 c 162 § 3; 1939 c 34 § 22; Rem. Supp. 1945 § 5654-122.] Recodified as RCW 52.14.010 pursuant to 1984 c 230 § 89.

52.12.015 Number in district having full time, fully paid personnel—Terms of first appointees. [1984 c 230 § 29; 1971 ex.s. c 242 § 3.] Recodified as RCW 52.14.020 pursuant to 1984 c 230 § 89.

52.12.020 Terms—Elections. [1984 c 230 § 30; 1979 ex.s. c 126 § 32; 1939 c 34 § 23; RRS § 5654-123.] Recodified as RCW 52.14.025 pursuant to 1984 c 230 § 89.

52.12.030 Election precincts. [1984 c 230 § 31; 1939 c 34 § 24; RRS § 5654-124.] Recodified as RCW 52.14.030 pursuant to 1984 c 230 § 89.

52.12.040 Declaration of candidacy. [1984 c 230 § 32; 1972 ex.s. c 101 § 1; 1947 c 254 § 7; 1939 c 34 § 25; Rem. Supp. 1947 § 5654-125.] Recodified as RCW 52.14.040 pursuant to 1984 c 230 § 89.

52.12.050 Vacancies—Procedure for filling—Grounds for declaring office vacant. [1977 c 64 § 1; 1974 ex.s. c 17 § 1; 1971 ex.s. c 153 § 1; 1939 c 34 § 26; RRS § 5654-126.] Recodified as RCW 52.14.050 pursuant to 1984 c 230 § 89.

52.12.060 Terms of first elected commissioners. [1984 c 230 § 33; 1979 ex.s. c 126 § 33; 1939 c 34 § 27; RRS § 5654-127.] Recodified as RCW 52.14.060 pursuant to 1984 c 230 § 89.

52.12.070 Oath of office. [1984 c 230 § 34; 1939 c 34 § 29; RRS § 5654-129.] Recodified as RCW 52.14.070 pursuant to 1984 c 230 § 89.

52.12.080 Chairman--Secretary--Duties and oath. [1984 c 230 § 35; 1965 c 112 § 2; 1939 c 34 § 30; RRS § 5654-130.] Recodified as RCW 52.14.080 pursuant to 1984 c 230 § 89.

52.12.090 Office--Meetings. [1984 c 230 § 36; 1947 c 254 § 8; 1939 c 34 § 31; Rem. Supp. 1947 § 5654-131.] Recodified as RCW 52.14.090 pursuant to 1984 c 230 § 89.

52.12.100 Duties of board. [1984 c 230 § 37; 1939 c 34 § 32; RRS § 5654-132.] Recodified as RCW 52.14.100 pursuant to 1984 c 230 § 89.

52.12.110 Contracts for work or purchases--Bids. [1983 c 3 § 161; 1972 ex.s. c 101 § 2; 1953 c 176 § 1.] Repealed by 1984 c 238 § 5.

Chapter 52.16

FINANCES

52.16.090 Election as to proposed bond issue. [1951 2nd ex.s. c 24 § 4.] Repealed by 1984 c 186 § 70.

52.16.100 Bond form, duration. [1983 c 167 § 124; 1970 ex.s. c 56 § 67; 1969 ex.s. c 232 § 40; 1951 2nd ex.s. c 24 § 5.] Repealed by 1984 c 186 § 70.

52.16.110 Execution and sale of bonds. [1983 c 167 § 125; 1951 2nd ex.s. c 24 § 6.] Repealed by 1984 c 186 § 70.

52.16.120 Annual levy to meet bond payments. [1973 1st ex.s. c 195 § 51; 1951 2nd ex.s. c 24 § 7.] Repealed by 1984 c 186 § 70.

Chapter 52.22

SPECIAL PROCEEDINGS

(Formerly: Withdrawal)

52.22.010 Withdrawal authorized. [1984 c 230 § 54; 1955 c 111 § 1.] Recodified as RCW 52.08.011 pursuant to 1984 c 230 § 89.

52.22.020 Withdrawal by incorporation of part of district. [1959 c 237 § 5; 1955 c 111 § 2.] Recodified as RCW 52.08.021 pursuant to 1984 c 230 § 89.

52.22.030 City may not be included within district--Withdrawal of city. [1979 ex.s. c 179 § 6; 1959 c 237 § 6.] Recodified as RCW 52.08.025, July, 1984.

52.22.040 City withdrawn to determine fire protection methods--Contracts--Joint operations--Sale, lease, etc., of property. [1984 c 230 § 55; 1959 c 237 § 8.] Recodified as RCW 52.08.035 pursuant to 1984 c 230 § 89.

52.22.050 Taxes and assessments unaffected. [1959 c 237 § 7.] Recodified as RCW 52.08.041 pursuant to 1984 c 230 § 89.

52.22.060 Commissioners residing in territory withdrawn--Vacancy created. [1984 c 230 § 56; 1959 c 237 § 9.] Recodified as RCW 52.08.051 pursuant to 1984 c 230 § 89.

Chapter 52.24

MERGERS

52.24.010 Merger of districts authorized. [1984 c 230 § 57; 1947 c 254 § 12; Rem. Supp. 1947 § 5654-151a.] Recodified as RCW 52.06.010 pursuant to 1984 c 230 § 89.

52.24.020 Petition--Contents. [1984 c 230 § 58; 1947 c 254 § 13; Rem. Supp. 1947 § 5654-151b.] Recodified as RCW 52.06.020 pursuant to 1984 c 230 § 89.

52.24.030 Action on petition. [1984 c 230 § 59; 1947 c 254 § 14; Rem. Supp. 1947 § 5654-151c.] Recodified as RCW 52.06.030 pursuant to 1984 c 230 § 89.

52.24.040 Duty of county auditor--Special election. [1984 c 230 § 60; 1947 c 254 § 15; Rem. Supp. 1947 § 5654-151d.] Recodified as RCW 52.06.040 pursuant to 1984 c 230 § 89.

52.24.050 Vote required--Status after favorable vote. [1947 c 254 § 16; Rem. Supp. 1947 § 5654-151e.] Recodified as RCW 52.06.050 pursuant to 1984 c 230 § 89.

52.24.060 Merger by petition. [1984 c 230 § 61; 1947 c 254 § 17; Rem. Supp. 1947 § 5654-151f.] Recodified as RCW 52.06.060 pursuant to 1984 c 230 § 89.

52.24.070 Obligations of merged districts. [1984 c 230 § 62; 1947 c 254 § 18; Rem. Supp. 1947 § 5654-151g.] Recodified as RCW 52.06.070 pursuant to 1984 c 230 § 89.

52.24.080 Delivery of property and funds. [1984 c 230 § 63; 1947 c 254 § 19; Rem. Supp. 1947 § 5654-151h.] Recodified as RCW 52.06.080 pursuant to 1984 c 230 § 89.

52.24.085 Board membership upon merger of districts--Subsequent boards. [1977 ex.s. c 121 § 1; 1971 c 55 § 1.] Recodified as RCW 52.06.085 pursuant to 1984 c 230 § 89.

52.24.090 Merger of part of district with adjacent district. [1984 c 230 § 64; 1965 ex.s. c 18 § 2; 1963 c 42 § 1; 1953 c 176 § 5.] Recodified as RCW 52.06.090 pursuant to 1984 c 230 § 89.

52.24.100 Merger of part of district with adjacent district--When election unnecessary. [1984 c 230 § 65; 1953 c 176 § 6.] Recodified as RCW 52.06.100 pursuant to 1984 c 230 § 89.

Chapter 52.28

BURNING PERMITS

52.28.010 Permits authorized--Resolution. [1947 c 254 § 20; Rem. Supp. 1947 § 5654-151i.] Recodified as RCW 52.12.101 pursuant to 1984 c 230 § 89.

52.28.020 Resolution to be published and posted. [1947 c 254 § 21; Rem. Supp. 1947 § 5654-151j.] Recodified as RCW 52.12.102 pursuant to 1984 c 230 § 89.

52.28.030 Content of permits. [1947 c 254 § 22; Rem. Supp. 1947 § 5654-151k.] Recodified as RCW 52.12.103 pursuant to 1984 c 230 § 89.

52.28.040 Duties of permittee. [1947 c 254 § 23; Rem. Supp. 1947 § 5654-151l.] Recodified as RCW 52.12.104 pursuant to 1984 c 230 § 89.

52.28.050 Penalty. [1947 c 254 § 24; Rem. Supp. 1947 § 5654-151m.] Recodified as RCW 52.12.105 pursuant to 1984 c 230 § 89.

Chapter 52.32

VALIDATION

52.32.010 Legislative validation. [1984 c 230 § 66; 1947 c 230 § 1; 1945 c 162 § 1; 1943 c 121 § 1; 1941 c 70 § 1; 1939 c 34 § 1; Rem. Supp. 1947 § 5654-151o.] Recodified as RCW 52.22.011 pursuant to 1984 c 230 § 89.

Chapter 52.34

VALIDATION PROCEDURE

52.34.010 Special proceedings for judicial confirmation of organization, bonds, warrants, contracts, etc. [1984 c 230 § 67; 1983 c 167 § 130; 1947 c 255 § 1; Rem. Supp. 1947 § 5654-153a. Formerly RCW 52.32.020.] Recodified as RCW 52.22.021 pursuant to 1984 c 230 § 89.

52.34.020 Petition. [1984 c 230 § 68; 1947 c 255 § 2; Rem. Supp. 1947 § 5654-153b. Formerly RCW 52.32.030.] Recodified as RCW 52.22.031 pursuant to 1984 c 230 § 89.

52.34.030 Hearing, date of, to be fixed--Notice. [1984 c 230 § 69; 1947 c 255 § 3; Rem. Supp. 1947 § 5654-153c. Formerly RCW 52.32.040.] Recodified as RCW 52.22.041 pursuant to 1984 c 230 § 89.

52.34.040 Demurrer or answer. [1984 c 230 § 70; 1947 c 255 § 4; Rem. Supp. 1947 § 5654-153d. Formerly RCW 52.32.050.] Recodified as RCW 52.22.051 pursuant to 1984 c 230 § 89.

52.34.050 Pleading and practice--Motion for new trial. [1984 c 230 § 71; 1947 c 255 § 5; Rem. Supp. 1947 § 5654-153e. Formerly RCW 52.32.060.] Recodified as RCW 52.22.061 pursuant to 1984 c 230 § 89.

52.34.060 Jurisdiction of court. [1984 c 230 § 72; 1983 c 167 § 131; 1947 c 255 § 6; Rem. Supp. 1947 § 5654-153f. Formerly RCW

52.32.070.] Recodified as RCW 52.22.071 pursuant to 1984 c 230 § 89.

52.34.070 Minor irregularities to be disregarded. [1984 c 230 § 73; 1947 c 255 § 7; Rem. Supp. 1947 § 5654–153g. Formerly RCW 52.32.080.] Recodified as RCW 52.22.081 pursuant to 1984 c 230 § 89.

52.34.080 Costs. [1984 c 230 § 74; 1947 c 255 § 8; Rem. Supp. 1947 § 5654–153h. Formerly RCW 52.32.090.] Recodified as RCW 52.22.091 pursuant to 1984 c 230 § 89.

52.34.090 Appeal. [1984 c 230 § 75; 1947 c 255 § 9; Rem. Supp. 1947 § 5654–153i. Formerly RCW 52.32.100.] Recodified as RCW 52.22.101 pursuant to 1984 c 230 § 89.

Chapter 52.36

MISCELLANEOUS PROVISIONS

52.36.010 Special elections—Qualifications of electors. [1984 c 230 § 76; 1939 c 34 § 28; RRS § 5654–128.] Recodified as RCW 52.30.010 pursuant to 1984 c 230 § 89.

52.36.020 Property of public agency included within district—Contracts for services. [1979 c 151 § 164; 1974 ex.s. c 88 § 1; 1973 1st ex.s. c 64 § 1; 1941 c 139 § 1; Rem. Supp. 1941 § 5654–143a.] Recodified as RCW 52.30.020 pursuant to 1984 c 230 § 89.

52.36.025 Use of equipment and personnel beyond district boundaries—Governmental function. [1984 c 230 § 77; 1980 c 43 § 1; 1969 c 88 § 2.] Recodified as RCW 52.12.111 pursuant to 1984 c 230 § 89.

52.36.027 Use of equipment and personnel outside district—Duty of fireman deemed duty for district—Benefits not impaired. [1984 c 230 § 78; 1969 c 88 § 3.] Recodified as RCW 52.12.121 pursuant to 1984 c 230 § 89.

52.36.040 Existing districts may come under this title. [1939 c 34 § 48; RRS § 5654–148.] Decodified pursuant to 1984 c 230 § 88.

52.36.050 Firemen's relief and pensions. Cross-reference section, decodified July, 1984.

52.36.060 Civil service for employees. [1984 c 230 § 79; 1971 ex.s. c 256 § 2; 1949 c 72 § 1; Rem. Supp. 1949 § 5654–120a.] Recodified as RCW 52.30.040 pursuant to 1984 c 230 § 89.

52.36.065 Civil service for employees—Residency not grounds for discharge. [1984 c 230 § 80; 1971 ex.s. c 256 § 1.] Recodified as RCW 52.30.050 pursuant to 1984 c 230 § 89.

52.36.080 Fire protection services provided by municipal corporation—Financial and other assistance by county authorized. Cross-reference section, decodified July, 1984.

52.36.090 First aid vehicle service—Establishment and collection of charges. [1984 c 230 § 81; 1975 c 64 § 1.] Recodified as RCW 52.12.131 pursuant to 1984 c 230 § 89.

52.36.095 Ambulance service—Establishment and collection of charges. [1975 1st ex.s. c 147 § 2.] Repealed by 1984 c 230 § 87.

Title 53 PORT DISTRICTS

Chapter 53.32

LEASE OF STATE-OWNED HARBOR AREAS

53.32.010 Authorization—Payment to state treasurer. [1917 c 93 § 1; RRS § 9719.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

53.32.020 Exclusive preference right of abutting shoreland owners—Rights of others—Application, notice—Sale, notice of. [1917 c 93 § 2; RRS § 9719. Formerly RCW 53.32.020 through 53.32.040.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

53.32.050 Performance bond or cash deposit—Cancellation—Tolls. [1979 c 72 § 3; 1917 c 93 § 3; RRS § 9721.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

53.32.060 Acts hereunder not to work an estoppel. [1917 c 93 § 5; RRS § 9723.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

53.32.070 Preference right on cancellation of existing lease. [1917 c 93 § 4; RRS § 9722.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

53.32.900 Repeal—Saving. [1917 c 93 § 6; no RRS.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

Chapter 53.43

VALIDATION OF INDEBTEDNESS IN CERTAIN DISTRICTS— FUNDING OR REFUNDING INDEBTEDNESS—1941 ACT

53.43.010 Validation without popular vote—Resolution. [1941 c 7 § 1; Rem. Supp. 1941 § 9692A–1. Formerly RCW 53.44.060.] Repealed by 1984 c 186 § 70.

53.43.020 Funding or refunding indebtedness—Issuance of bonds—Election. [1941 c 7 § 2; Rem. Supp. 1941 § 9692A–2.] Repealed by 1984 c 186 § 70.

53.43.030 Requisites of bonds—Maturity—Redemption. [1983 c 167 § 141; 1941 c 7 § 3; Rem. Supp. 1941 § 9692A–3.] Repealed by 1984 c 186 § 70.

53.43.040 Interest on bonds—Form and execution—Issuance by sale or exchange—Limitation of amount. [1983 c 167 § 142; 1981 c 156 § 17; 1941 c 7 § 4; Rem. Supp. 1941 § 9692A–4.] Repealed by 1984 c 186 § 70.

53.43.050 Validation by vote—Effect. [1941 c 7 § 5; Rem. Supp. 1941 § 9692A–5. Formerly RCW 53.44.050, part.] Repealed by 1984 c 186 § 70.

53.43.060 Bond election for funding or refunding indebtedness—Vote required. [1941 c 7 § 6; Rem. Supp. 1941 § 9692A–6. Formerly RCW 53.44.050, part.] Repealed by 1984 c 186 § 70.

53.43.070 Application of chapter. [1941 c 7 § 7; Rem. Supp. 1941 § 9692A–7. Formerly RCW 53.44.050, part.] Repealed by 1984 c 186 § 70.

Chapter 53.44

FUNDING AND REFUNDING INDEBTEDNESS—1947 ACT

53.44.020 Rate of interest—Form and execution. [1983 c 167 § 143; 1970 ex.s. c 56 § 76; 1969 ex.s. c 232 § 91; 1947 c 239 § 2; Rem. Supp. 1947 § 5632–2.] Repealed by 1984 c 186 § 70.

53.44.040 Procedure for issuance. [1947 c 239 § 4; Rem. Supp. 1947 § 5623–4.] Repealed by 1984 c 186 § 70.

Title 58 BOUNDARIES AND PLATS

Chapter 58.17

PLATS—SUBDIVISIONS—DEDICATIONS

58.17.270 Submission of local subdivision regulations to planning and community affairs agency. [1969 ex.s. c 271 § 28.] Repealed by 1984 c 125 § 22, effective June 30, 1984.

Title 64 REAL PROPERTY AND CONVEYANCES

Chapter 64.24

POWERS OF APPOINTMENT

64.24.010 Releases. [1984 c 149 § 33; 1955 c 160 § 1.] Recodified as RCW 11.95.010 pursuant to 1984 c 149 § 32, effective January 1, 1985.

64.24.020 Releases—Partial releases. [1984 c 149 § 34; 1955 c 160 § 2.] Recodified as RCW 11.95.020 pursuant to 1984 c 149 § 32, effective January 1, 1985.

64.24.030 Releases--Form and substance--Delivery. [1984 c 149 § 35; 1955 c 160 § 3.] Recodified as RCW 11.95.030 pursuant to 1984 c 149 § 32, effective January 1, 1985.

64.24.040 Releases--Effect on prior releases. [1984 c 149 § 36; 1955 c 160 § 4.] Recodified as RCW 11.95.040 pursuant to 1984 c 149 § 32, effective January 1, 1985.

64.24.050 Releases--Filing with secretary of state--Fee. [1955 c 160 § 5.] Recodified as RCW 11.95.050 pursuant to 1984 c 149 § 37, effective January 1, 1985.

Title 65

RECORDING, REGISTRATION, AND LEGAL PUBLICATION

Chapter 65.08 RECORDING

65.08.080 Executory contracts. [1927 c 278 § 3; RRS § 10596-3.] Repealed by 1984 c 73 § 2.

Title 70

PUBLIC HEALTH AND SAFETY

Chapter 70.44 PUBLIC HOSPITAL DISTRICTS

70.44.120 Bonds--Form--Terms--Execution. [1983 c 167 § 173; 1970 ex.s. c 56 § 86; 1969 ex.s. c 65 § 3; 1945 c 264 § 13; Rem. Supp. 1945 § 6090-42.] Repealed by 1984 c 186 § 70.

Chapter 70.77 STATE FIREWORKS LAW

70.77.570 Certain rockets not to be sold as common fireworks. [1982 c 230 § 13.] Repealed by 1984 c 249 § 40.

Chapter 70.95 SOLID WASTE MANAGEMENT--RECOVERY AND RECYCLING

70.95.120 Technical assistance. [1969 ex.s. c 134 § 12.] Repealed by 1984 c 123 § 11. Later enactment, see RCW 70.95.100.

Title 72 STATE INSTITUTIONS

Chapter 72.65 WORK RELEASE PROGRAM

72.65.020 Places of confinement--Extension of limits authorized, conditions--Lease for commercial enterprise, expiration date. [1979 ex.s. c 160 § 1; 1979 c 141 § 275; 1967 c 17 § 2.] Repealed by 1981 c 137 § 38, effective July 1, 1984; repeal rescinded, section reinstated by 1984 c 209 § 31, effective June 30, 1984.

72.65.030 Application of prisoner to participate in program--Contents of application. [1979 c 141 § 276; 1967 c 17 § 3.] Repealed by 1981 c 137 § 38, effective July 1, 1984; repeal rescinded, section reinstated by 1984 c 209 § 31, effective June 30, 1984.

72.65.040 Approval or denial of application--Adoption of work release plan--Terms and conditions--Revocation--Reapplication. [1979 c 141 § 277; 1967 c 17 § 4.] Repealed by 1981 c 137 § 38, effective July 1, 1984; repeal rescinded, section reinstated by 1984 c 209 § 31, effective June 30, 1984.

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapter 73.04 GENERAL PROVISIONS

73.04.100 Credit toward law degree. [1947 c 252 § 1; Rem. Supp. 1947 § 10758-110.] Repealed by 1984 c 117 § 1.

Chapter 73.12 VETERANS' LOAN INSURANCE

73.12.010 Statement of purpose. [1945 c 217 § 1; Rem. Supp. 1945 § 10758-80.] Repealed by 1984 c 29 § 1.

73.12.030 Veterans' loan insurance fund created. [1945 c 217 § 4; Rem. Supp. 1945 § 10758-83.] Repealed by 1984 c 29 § 1.

73.12.040 Veterans' loan insurance reserve fund. [1945 c 217 § 5; Rem. Supp. 1945 § 10758-84.] Repealed by 1984 c 29 § 1.

73.12.050 Reserve fund to pay losses--Limitation. [1945 c 217 § 6; Rem. Supp. 1945 § 10758-85.] Repealed by 1984 c 29 § 1.

73.12.060 Investment of fund--Expenses of loan insurance division. [1981 c 3 § 42; 1945 c 217 § 7; Rem. Supp. 1945 § 10758.] Repealed by 1984 c 29 § 1.

Title 75

FOOD FISH AND SHELLFISH

Chapter 75.44 PROGRAM TO PURCHASE FISHING VESSELS AND LICENSES (Formerly: Loan assistance to commercial fishermen)

75.44.160 Time limitation to apply for participation--Completion of program. [1983 1st ex.s. c 46 § 161; 1979 ex.s. c 43 § 3; 1977 ex.s. c 230 § 6; 1975 1st ex.s. c 183 § 10. Formerly RCW 75.28.540.] Repealed by 1984 c 67 § 2.

Title 76

FORESTS AND FOREST PRODUCTS

Chapter 76.36 MARKS AND BRANDS

76.36.030 Registration of marks or brands. [1957 c 36 § 1; 1925 ex.s. c 154 § 3; RRS § 8381-3. Prior: 1890 p 110 §§ 2, 3.] Repealed by 1984 c 60 § 23.

76.36.040 Assignment. [1957 c 36 § 2; 1925 ex.s. c 154 § 4; RRS § 8381-4.] Repealed by 1984 c 60 § 23.

76.36.050 Certificate as evidence of registration and ownership. [1957 c 36 § 3; 1925 ex.s. c 154 § 5; RRS § 8381-5.] Repealed by 1984 c 60 § 23.

76.36.150 Renewal of marks or brands--Effect of failure to renew--Abandoned marks or brands. [1957 c 36 § 9; 1949 c 216 § 1; Rem. Supp. 1949 § 8381-16.] Repealed by 1984 c 60 § 23.

Chapter 76.40 LOG PATROLS

76.40.122 Investigations--Hearings--Subpoenas--Oaths. [1953 c 140 § 3.] Repealed by 1984 c 60 § 23.

76.40.124 Violations by applicant or licensee--Hearing--Notice. [1953 c 140 § 4.] Repealed by 1984 c 60 § 23.

76.40.125 Violations by licensee--Remedy of owner--Procedure. [1955 c 108 § 6; 1953 c 140 § 5.] Repealed by 1984 c 60 § 23.

76.40.127 Denial, revocation, suspension of license. [1957 c 182 § 8; 1955 c 108 § 7; 1953 c 140 § 6.] Repealed by 1984 c 60 § 23.

76.40.128 Denial, revocation, suspension of license--Reparation as condition to issuance or reinstatement. [1955 c 108 § 8; 1953 c 140 § 7.] Repealed by 1984 c 60 § 23.

Title 77 GAME AND GAME FISH

Chapter 77.21 PENALTIES--PROCEEDINGS

77.21.050 Penalty assessments. [1980 c 78 § 31; 1975 c 57 § 1. Formerly RCW 77.12.173.] Repealed by 1984 c 258 § 339, effective July 1, 1985. See RCW 3.62.090 and 43.08.250.

Title 78 MINES, MINERALS, AND PETROLEUM

Chapter 78.44 SURFACE MINING

78.44.900 Existing operations--Temporary permits. [1970 ex.s. c 64 § 19.] Repealed by 1984 c 215 § 9.

Title 79 PUBLIC LANDS

Chapter 79.92 AQUATIC LANDS--HARBOR AREAS

79.92.040 Authority to lease harbor areas--Conditions. [1982 1st ex.s. c 21 § 72.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

79.92.050 Department's valuation of harbor area prior to lease, renewal or re-lease--Appeal. [1982 1st ex.s. c 21 § 73.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

Chapter 79.94 AQUATIC LANDS--TIDELANDS AND SHORELANDS

79.94.180 Leases of first and second class tidelands--Conditions. [1982 1st ex.s. c 21 § 103.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

79.94.190 Leases of first and second class tidelands--Terms. [1982 1st ex.s. c 21 § 104.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

79.94.200 First class shorelands--Leasing. [1982 1st ex.s. c 21 § 105.] Repealed by 1984 c 221 § 30, effective October 1, 1984.

Chapter 79.96 AQUATIC LANDS--OYSTERS, GEODUCKS, SHELLFISH, AND OTHER AQUACULTURAL USES

79.96.900 Study--1982 1st ex.s. c 21. [1982 1st ex.s. c 21 § 179.] Decodified pursuant to 1984 c 221 § 29, effective October 1, 1984.

Title 84 PROPERTY TAXES

Chapter 84.33 TIMBER AND FOREST LANDS

84.33.030 Definitions. [1982 2nd ex.s. c 4 § 1; 1971 ex.s. c 294 § 3.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.050 Valuation--Timber roll--Base years--Calculation of assessed valuation. [1981 c 148 § 2; 1974 ex.s. c 187 § 3; 1973 1st ex.s. c 195 § 90; 1972 ex.s. c 148 § 4; 1971 ex.s. c 294 § 5.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.060 Calculation and fixing of dollar rates for regular and excess levies. [1979 c 6 § 2; 1977 ex.s. c 347 § 2; 1973 1st ex.s. c 195 § 91; 1971 ex.s. c 294 § 6.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.071 Excise tax on harvesters of timber--Rate--Definitions--Stumpage values--Revised tables--Appeals--State timber tax account A and state timber tax reserve account--Payment of tax. [1983 2nd ex.s. c 3 § 59; 1982 2nd ex.s. c 4 § 2; 1981 c 148 § 1; 1979 c 6 § 1; 1977 ex.s. c 347 § 1. Prior: 1975-'76 2nd ex.s. c 123 § 7; 1975-'76 2nd ex.s. c 33 § 1; 1974 ex.s. c 187 § 1; 1972 ex.s. c 148 § 1; 1971 ex.s. c 294 § 7. Formerly RCW 82.04.291.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.072 Excise tax on harvesters of timber--Application of excise taxes' administrative provisions and definitions--References to RCW 82.04.291. [1979 ex.s. c 95 § 6.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.080 Schedule of value of timber on timber roll, aggregate dollar rates and "timber factor"--Schedule of value of timber harvested, aggregate dollar rates and "harvest factor"--Transfers between timber tax accounts--Payments and distributions. [1983 c 8 § 1; 1981 c 4 § 6; 1979 c 6 § 3; 1977 ex.s. c 347 § 3; 1975-'76 2nd ex.s. c 123 § 8; 1974 ex.s. c 187 § 2; 1973 1st ex.s. c 195 § 92; 1972 ex.s. c 148 § 2; 1971 ex.s. c 294 § 8.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.085 Timber tax distribution guarantee account. [1981 c 4 § 5.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

84.33.090 Indebtedness limitation calculation to include value of timber--Calculation of school district distribution--Pledge of proceeds from forest tax distribution system authorized. [1981 c 148 § 3; 1972 ex.s. c 148 § 3; 1971 ex.s. c 294 § 9.] Repealed by 1984 c 204 § 47, effective July 1, 1984.

Chapter 84.36 EXEMPTIONS

84.36.048 Administration of exemption contained in RCW 84.36-.047. [1977 ex.s. c 348 § 2.] Repealed by 1984 c 220 § 28.

Title 86 FLOOD CONTROL

Chapter 86.16 FLOOD CONTROL ZONES BY STATE

86.16.095 Prohibitions in RCW 86.16.080 and 86.16.090 inapplicable to certain structures and property. [1969 ex.s. c 195 § 4.] Repealed by 1984 c 212 § 11.

Chapter 86.26 STATE PARTICIPATION IN FLOOD CONTROL MAINTENANCE

86.26.020 State participation in flood control construction, maintenance and betterments. [1961 c 84 § 2; 1951 c 240 § 4.] Repealed by 1984 c 212 § 11.

86.26.030 Local flood control engineer. [1951 c 240 § 5.] Repealed by 1984 c 212 § 11.

86.26.110 Vouchers for expenditures--Approval. [1973 c 106 § 38; 1951 c 240 § 13.] Repealed by 1984 c 212 § 11.

Title 88
NAVIGATION AND HARBOR
IMPROVEMENTS

Chapter 88.16
PILOTAGE ACT

88.16.116 Limiting liability of pilots--Terms in special contracts or tariffs to do so. [1981 c 196 § 2.] Repealed by 1984 c 69 § 2.

88.16.117 Limiting liability of pilots--Regulations--Forms--Records. [1981 c 196 § 3.] Repealed by 1984 c 69 § 2.

Title 89
RECLAMATION, SOIL CONSERVATION
AND LAND SETTLEMENT

Chapter 89.30
RECLAMATION DISTRICTS OF ONE MILLION ACRES

89.30.406 Elections to authorize indebtedness. [1927 c 254 § 136; RRS § 7402-136. Formerly RCW 89.22.650, part.] Repealed by 1984 c 186 § 70.

89.30.409 Elections to authorize indebtedness--Notice. [1927 c 254 § 137; RRS § 7402-137. Formerly RCW 89.22.650, part.] Repealed by 1984 c 186 § 70.

89.30.415 General obligation bonds--Form. [1983 c 167 § 251; 1927 c 254 § 139; RRS § 7402-139. Formerly RCW 89.26.210, part.] Repealed by 1984 c 186 § 70.

89.30.418 General obligation bonds--Date--Interest--Payments. [1983 c 167 § 252; 1970 ex.s. c 56 § 102; 1969 ex.s. c 232 § 61; 1927 c 254 § 140; RRS § 7402-140. Formerly RCW 89.26.220.] Repealed by 1984 c 186 § 70.

89.30.421 General obligation bonds--Execution--Facsimile signatures. [1983 c 167 § 253; 1927 c 254 § 141; RRS § 7402-141. Formerly RCW 89.26.230.] Repealed by 1984 c 186 § 70.

89.30.424 General obligation bonds--Contents. [1927 c 254 § 142; RRS § 7402-142. Formerly RCW 89.26.210, part.] Repealed by 1984 c 186 § 70.

Title 1 GENERAL PROVISIONS

Chapters

1.08 Statute law committee (Code reviser).

Chapter 1.08

STATUTE LAW COMMITTEE (CODE REVISER)

Sections

1.08.005 Compensation and expenses of members. (Effective July 1, 1985.)

1.08.005 Compensation and expenses of members. (Effective July 1, 1985.) For attendance at meetings of the committee or in attending to such other business of the committee as may be authorized thereby, each legislative member of the committee shall receive the per diem and travel allowances provided for such members by RCW 44.04.120, and each other member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 6; 1969 c 21 § 1; 1951 c 157 § 3.]

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

Title 2 COURTS OF RECORD

Chapters

- 2.04 Supreme court.
- 2.06 Court of appeals.
- 2.08 Superior courts.
- 2.10 Judicial retirement system.
- 2.12 Retirement of judges—Retirement system.
- 2.32 Court clerks, reporters, and bailiffs.
- 2.56 Administrator for the courts.
- 2.64 Judicial qualifications commission.

Chapter 2.04

SUPREME COURT

Sections

- 2.04.090 Salary—Timely completion of opinions required. (Effective until July 1, 1985.)
- 2.04.090 Repealed. (Effective July 1, 1985.)
- 2.04.092 Salary of justices prescribed by legislature. (Effective July 1, 1985.)

2.04.090 Salary—Timely completion of opinions required. (Effective until July 1, 1985.) Each justice of the supreme court shall receive an annual salary of sixty-six thousand dollars, but no salary warrant shall be issued to any judge of the supreme court until he shall have made and filed with the state treasurer an affidavit

that no matter referred to him for opinion or decision has been uncompleted or undecided by him for more than six months. [1984 c 64 § 1; 1979 ex.s. c 255 § 4; 1977 ex.s. c 318 § 2; 1975 1st ex.s. c 263 § 2; 1974 ex.s. c 149 § 3 (Initiative Measure No. 282, approved November 6, 1973); 1973 c 106 § 2; 1972 ex.s. c 100 § 1; 1965 ex.s. c 127 § 1; 1957 c 260 § 1; 1953 c 144 § 1. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Effective date—1984 c 64: "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, 1984." [1984 c 64 § 5.]

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

Effective date—1977 ex.s. c 318: See note following RCW 43.03.010.

Severability—Effective date—1975 1st ex.s. c 263: See notes following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

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.] "this act" [1965 ex.s. c 127] is codified as RCW 2.04.090, 2.08.090, 43.03.010 and 44.04.080.

Construction—1953 c 144: "Nothing contained in this act shall affect the salary of any judge now in office during the term for which he was elected." [1953 c 144 § 3.]

Salaries of judicial officers: State Constitution Art. 4 §§ 13, 14; Art. 30 § 1.

2.04.090 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

2.04.092 Salary of justices prescribed by legislature. (Effective July 1, 1985.) The annual salary of justices of the supreme court shall be prescribed by the legislature in the biennial omnibus appropriations act. No salary warrant may be issued to a justice of the supreme court until the justice files with the state treasurer an affidavit that no matter referred to the justice for opinion or decision has been uncompleted or undecided for more than six months. [1984 c 258 § 401.]

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

Chapter 2.06

COURT OF APPEALS

Sections

- 2.06.040 Panels—Decisions, publication as opinions, when—Sessions, where held—Rules.
- 2.06.060 Salaries—Timely completion of opinions required. (Effective until July 1, 1985.)
- 2.06.060 Repealed. (Effective July 1, 1985.)
- 2.06.062 Salary of judges prescribed by legislature. (Effective July 1, 1985.)

2.06.040 Panels—Decisions, publication as opinions, when—Sessions, where held—Rules. The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. Panels in the first division shall be comprised of such judges as the chief judge thereof shall from time to time direct. Judges of the respective divisions may sit in other divisions and causes may be transferred between divisions, as directed by written order of the chief justice. The court may hold sessions in such of the following cities as may be designated by rule: Seattle, Everett, Bellingham, Tacoma, Vancouver, Spokane, Yakima, Richland, Wenatchee, and Walla Walla.

No judge of the court shall be entitled to per diem or mileage for services performed at either his legal residence or the headquarters of the division of the court of which he is a member.

The court may establish rules supplementary to and not in conflict with rules of the supreme court. [1984 c 258 § 91; 1971 c 41 § 1; 1969 ex.s. c 221 § 4.]

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

2.06.060 Salaries—Timely completion of opinions required. (Effective until July 1, 1985.) Each judge of the court of appeals shall receive an annual salary of sixty-three thousand dollars, but no salary warrant shall be issued to any judge until he shall have made and filed with the state treasurer an affidavit that no matter referred to him for opinion or decision has been uncompleted by him for more than three months. [1984 c 64 § 2; 1979 ex.s. c 255 § 5; 1977 ex.s. c 318 § 3; 1975 1st ex.s. c 263 § 3; 1974 ex.s. c 149 § 4 (Initiative Measure No. 282, approved November 6, 1973); 1973 c 106 § 3; 1972 ex.s. c 100 § 2; 1969 ex.s. c 221 § 6.]

Effective date—1984 c 64: See note following RCW 2.04.090.

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

Effective date—1977 ex.s. c 318: See note following RCW 43.03.010.

Severability—Effective date—1975 1st ex.s. c 263: See notes following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

2.06.060 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

2.06.062 Salary of judges prescribed by legislature. (Effective July 1, 1985.) The annual salary of the judges of the court of appeals shall be prescribed by the legislature in the biennial omnibus appropriations act. No salary warrant may be issued to any judge until the

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judge files with the state treasurer an affidavit that no matter referred to the judge for opinion or decision has been uncompleted for more than six months. [1984 c 258 § 402.]

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

Chapter 2.08 SUPERIOR COURTS

Sections

2.08.090	Salary. (Effective until July 1, 1985.)
2.08.090	Repealed. (Effective July 1, 1985.)
2.08.092	Salary of judges prescribed by legislature. (Effective July 1, 1985.)

2.08.090 Salary. (Effective until July 1, 1985.) Each judge of the superior court shall receive an annual salary of sixty thousand dollars. [1984 c 64 § 3; 1979 ex.s. c 255 § 6; 1977 ex.s. c 318 § 4; 1975 1st ex.s. c 263 § 4; 1974 ex.s. c 149 § 5 (Initiative Measure No. 282, approved November 6, 1973); 1972 ex.s. c 100 § 3; 1967 c 65 § 1; 1965 ex.s. c 127 § 2; 1957 c 260 § 2; 1953 c 144 § 2. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1923 c 169 § 1; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Effective date—1984 c 64: See note following RCW 2.04.090.

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

Effective date—1977 ex.s. c 318: See note following RCW 43.03.010.

Severability—Effective date—1975 1st ex.s. c 263: See notes following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

Construction—1965 ex.s. c 127: See note following RCW 2.04.090.

Construction—1953 c 144: See note following RCW 2.04.090.

Salaries of judicial officers: State Constitution Art. 4 § 13, 14; Art. 30 § 1.

2.08.090 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

2.08.092 Salary of judges prescribed by legislature. (Effective July 1, 1985.) The annual salary of the judges of the superior court shall be prescribed by the legislature in the biennial omnibus appropriations act. [1984 c 258 § 403.]

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

Chapter 2.10 JUDICIAL RETIREMENT SYSTEM

Sections

2.10.040	System created—Coverage—Exclusion from coverage.
2.10.095	Payment of legal and medical expenses of system.
2.10.140	Surviving spouse's benefit.

2.10.040 System created—Coverage—Exclusion from coverage. The Washington judicial retirement system is hereby created for judges appointed or elected under the provisions of chapters 2.04, 2.06, and 2.08 RCW. All judges first appointed or elected to the courts covered by these chapters on or after August 9, 1971 shall be members of this system: *Provided*, That following February 23, 1984, any newly elected or appointed judge holding credit toward retirement benefits under chapter 41.40 RCW shall be allowed thirty days from the effective date of election or appointment to such judgeship to make an irrevocable choice filed in writing with the department of retirement systems to continue coverage under that chapter and to be permanently excluded from coverage under this chapter for the current or any future term as a judge. [1984 c 37 § 1; 1971 ex.s. c 267 § 4.]

Transfers to system, prior service credit: RCW 2.10.220.

2.10.095 Payment of legal and medical expenses of system. The director of retirement systems is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 3.]

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

2.10.140 Surviving spouse's benefit. A surviving spouse of any judge holding such office, or if he dies after having retired and who, at the time of his death, has served ten or more years in the aggregate, shall receive a monthly allowance equal to fifty percent of the retirement allowance the retired judge was receiving, or fifty percent of the retirement allowance the active judge would have received had he been retired on the date of his death, but in no event less than twenty-five percent of the final average salary that the deceased judge was receiving: *Provided*, That said surviving spouse had been married to the judge for a minimum of two years at time of death: *And provided further*, That if the surviving spouse remarries all benefits under this chapter shall cease. [1984 c 37 § 2; 1971 ex.s. c 267 § 14.]

Application—1984 c 37 § 2: "Section 2 of this 1984 act applies in respect to each surviving spouse who first applies for benefits under RCW 2.10.140 after January 1, 1984." [1984 c 37 § 3.]

Chapter 2.12

RETIREMENT OF JUDGES—RETIREMENT SYSTEM

Sections

2.12.080 Payment of legal and medical expenses of system.

2.12.080 Payment of legal and medical expenses of system. The director of retirement systems is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 4.]

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

Chapter 2.32

COURT CLERKS, REPORTERS, AND BAILIFFS

Sections

2.32.160 Commission to supervise publication of reports. (Effective July 1, 1985.)

2.32.160 Commission to supervise publication of reports. (Effective July 1, 1985.) There is hereby created a commission to supervise the publication of the decisions of the supreme court and court of appeals of this state in both the form of advance sheets for temporary use and in permanent form, to be known as the commission on supreme court reports, and to consist of six members, as follows: The chief justice of the supreme court, who shall be chairman of the commission, the reporter of decisions of the supreme court, the state law librarian, a judge of the court of appeals designated by the chief judges, the public printer, and a representative of the Washington state bar who shall be appointed by the president thereof. Members of the commission shall serve as such without additional or any compensation: *Provided*, That members shall be compensated in accordance with RCW 43.03.240. [1984 c 287 § 7; 1971 c 42 § 1; 1943 c 185 § 1; Rem. Supp. 1943 § 11071-1. Prior: 1917 c 87 § 1; 1905 c 167 §§ 1-4; 1895 c 55 § 1; 1891 c 37 § 1; 1890 p 327 § 1.]

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

Chapter 2.56

ADMINISTRATOR FOR THE COURTS

Sections

2.56.010	Office created—Appointment, term, age qualification, salary.
2.56.100	Repealed. (Effective July 1, 1985.)
2.56.120	Judicial impact notes—Establishment of procedure—Legislators may request—Copies to be filed.

2.56.010 Office created—Appointment, term, age qualification, salary. There shall be a state office to be known as the office of administrator for the courts who shall be appointed by the supreme court of this state from a list of five persons submitted by the governor of the state of Washington, and shall hold office at the pleasure of the appointing power. He shall not be over the age of sixty years at the time of his appointment. He shall receive a salary to be fixed by the supreme court. [1984 c 20 § 1; 1979 ex.s. c 255 § 7; 1974 ex.s. c 156 § 1; 1969 c 93 § 1; 1957 c 259 § 1.]

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

2.56.100 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

2.56.120 Judicial impact notes—Establishment of procedure—Legislators may request—Copies to be filed. (1) The office of the administrator for the courts, in cooperation with appropriate legislative committees and legislative staff, shall establish a procedure for the provision of judicial impact notes on the effect legislative bills will have on the workload and administration of the courts of this state. The administrator for the courts and the office of financial management shall coordinate the development of judicial impact notes with the preparation of fiscal notes under chapters 43.88A and 43.132 RCW.

(2) The administrator for the courts shall provide a judicial impact note on any legislative proposal at the request of any legislator. The note shall be provided to the requesting legislator and copies filed with the appropriate legislative committees in accordance with subsection (3) of this section when the proposed legislation is introduced in either house.

(3) When a judicial impact note is prepared and approved by the administrator for the courts, copies of the note shall be filed with:

- (a) The chairperson of the committee to which the bill was referred upon introduction in the house of origin;
- (b) The senate committee on ways and means;
- (c) The house of representatives committee on ways and means;
- (d) The senate judiciary committee;
- (e) The house of representatives judiciary committee;
- (f) The legislative budget committee; and

(g) The office of financial management.

(4) This section shall not prevent either house of the legislature from acting on any bill 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 judicial impact note as provided in this section or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1984 c 258 § 604.]

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

Chapter 2.64

JUDICIAL QUALIFICATIONS COMMISSION

Sections

2.64.040	Compensation and travel expenses. (Effective July 1, 1985.)
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2.64.040 Compensation and travel expenses. (Effective July 1, 1985.) Commission members and alternate members shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. [1984 c 287 § 8; 1981 c 268 § 5.]

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

Title 3

DISTRICT COURTS—COURTS OF LIMITED JURISDICTION

(Formerly: Justice Courts—Courts of Limited Jurisdiction)

Chapters

3.04	Justices of the peace.
3.08	Constables.
3.12	Justices and constables in cities.
3.14	Justice court districts.
3.16	Salaries and fees.
3.20	Jurisdiction and venue.
3.24	Night courts.
3.28	Contempt.
3.30	District courts.
3.34	District judges.
3.38	District court districts.
3.42	District court commissioners.
3.46	Municipal departments.
3.50	Municipal departments—Alternate provision.
3.54	Clerks and deputy clerks.
3.58	Salaries and expenses.
3.62	Income of court.
3.66	Jurisdiction and venue.
3.70	Magistrates' association.
3.74	Miscellaneous.

Chapter 3.04
JUSTICES OF THE PEACE

Sections
3.04.010 through 3.04.150 Repealed.

3.04.010 through 3.04.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.08
CONSTABLES

Sections
3.08.010 through 3.08.080 Repealed.

3.08.010 through 3.08.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.12
JUSTICES AND CONSTABLES IN CITIES

Sections
3.12.010 through 3.12.090 Repealed.

3.12.010 through 3.12.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.14
JUSTICE COURT DISTRICTS

Sections
3.14.020 through 3.14.060 Repealed.

3.14.020 through 3.14.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.16
SALARIES AND FEES

Sections
3.16.002 through 3.16.160 Repealed.

3.16.002 through 3.16.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.20
JURISDICTION AND VENUE

Sections
3.20.010 through 3.20.090 Repealed.
3.20.110 Repealed.
3.20.115 Decodified.
3.20.120 Repealed.

3.20.131 Repealed.

3.20.010 through 3.20.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.20.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.20.115 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.20.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.20.131 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.24
NIGHT COURTS

Sections
3.24.010 through 3.24.090 Repealed.

3.24.010 through 3.24.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.28
CONTEMPT

Sections
3.28.010 through 3.28.070 Repealed.

3.28.010 through 3.28.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.30
DISTRICT COURTS
(Formerly: Justice courts)

Sections
3.30.010 Definitions.
3.30.015 Construction of "justices of the peace," "justice courts," "justice of the peace courts."
3.30.030 Nomenclature for judges and courts.
3.30.040 Sessions.
3.30.050 Departments.
3.30.080 Rules.

3.30.010 Definitions. As used in this chapter unless the context clearly requires otherwise:

"City" means an incorporated city or town.

"Department" means an administrative unit of a district court established for the orderly and efficient administration of business and may include, without being limited in scope thereby, a unit or units for determining traffic cases, violations of city ordinances, violations of state law, criminal cases, civil cases, or jury cases.

"Population" means the latest population of the judicial district of each county as estimated and certified by the office of financial management. The office of financial management, on or before May 1, 1970 and on or before May 1st each four years thereafter, shall estimate and certify to the county legislative authority the population of each judicial district of each county. [1984 c 258 § 3; 1979 c 151 § 1; 1967 ex.s. c 42 § 1; 1961 c 299 § 1.]

Court Improvement Act of 1984—Effective dates—1984 c 258: "(1) Sections 1 through 210, 511, 601 through 808, and 901 of this act shall take effect on July 1, 1984.

(2) Sections 501 through 510 and 512 through 524 of this act shall take effect on January 1, 1985.

(3) Sections 301 through 405 of this act shall take effect on July 1, 1985." [1984 c 258 § 902.] For disposition of sections, see Codification Tables, this volume.

Court Improvement Act of 1984—Severability—1984 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." [1984 c 258 § 903.]

Short title—1984 c 258: "This act may be known and cited as the court improvement act of 1984." [1984 c 258 § 1.]

Saving—1967 ex.s. c 42: "All matters relating to functions transferred under the provisions of this 1967 amendatory act which at the time of transfer have not been completed may be undertaken and completed by the director of the planning and community affairs agency, who is authorized, empowered, and directed to promulgate any and all orders, rules and regulations necessary to accomplish this purpose." [1967 ex.s. c 42 § 4.] The planning and community affairs agency has been redesignated the department of community development. See RCW 43.63A.045.

Effective date—1967 ex.s. c 42: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 ex.s. c 42 § 5.]

Population determinations, office of financial management: Chapter 43.62 RCW.

3.30.015 Construction of "justices of the peace," "justice courts," "justice of the peace courts." All references to justices of the peace in other titles of the Revised Code of Washington shall be construed as meaning district judges. All references to justice courts or justice of the peace courts in other titles of the Revised Code of Washington shall be construed as meaning district courts. [1984 c 258 § 90.]

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

3.30.030 Nomenclature for judges and courts. The judges of each district court district shall be the justices of the peace of the district elected or appointed as provided in chapters 3.30 through 3.74 RCW. Such courts shall alternately be referred to as district courts and the judges thereof as district judges. [1984 c 258 § 4; 1971 c 73 § 1; 1961 c 299 § 3.]

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

3.30.040 Sessions. The district courts shall be open except on nonjudicial days. Sessions of the court shall be held at such places as shall be provided by the district court districting plan. The court shall sit as often as business requires in each city of the district which provides suitable courtroom facilities, to hear causes in

which such city is the plaintiff. [1984 c 258 § 5; 1961 c 299 § 4.]

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

3.30.050 Departments. Each court may be organized in a manner consistent with the departments created by the districting plan. [1984 c 258 § 6; 1971 c 73 § 2; 1961 c 299 § 5.]

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

3.30.080 Rules. The supreme court may adopt rules of procedure for district courts. A district court may adopt local rules of procedure which are not inconsistent with state law or with the rules adopted by the supreme court. If the rules of the supreme court authorized under this section are adopted, all procedural laws in conflict with the rules shall be of no effect. [1984 c 258 § 7; 1961 c 299 § 8.]

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

Chapter 3.34

DISTRICT JUDGES

(Formerly: Justices of the peace)

Sections	
3.34.020	Justices of the peace—Number of full time.
3.34.030	Reallocation of number of justices.
3.34.040	District judges—Full time—Other.
3.34.050	District judges—Election.
3.34.060	District judges—Eligibility and qualifications.
3.34.070	District judges—Term of office.
3.34.080	Oath—District judges—Court commissioners.
3.34.090	Bonds—Insurance as reimbursable expense.
3.34.100	District judges—Vacancies.
3.34.110	District judges—Disqualification.
3.34.120	District judges—Disqualification of partners.
3.34.130	District judges pro tempore—Reduction in salary of judges replaced—Exception—Reimbursement of counties. (Effective until July 1, 1985.)
3.34.130	Justices of the peace pro tempore—Reduction in salary of justices of the peace replaced—Exception—Reimbursement of counties. (Effective July 1, 1985.)
3.34.140	Exchange of district judges—Reimbursement for expenses.
3.34.150	Presiding judge.

3.34.020 Justices of the peace—Number of full time. In each district having a population of forty thousand or more but less than sixty thousand, there shall be elected one full time justice of the peace; in each district having a population of sixty thousand but less than one hundred twenty-five thousand, there shall be elected two full time justices; in each district having a population of one hundred twenty-five thousand but less than two hundred thousand, there shall be elected three full time justices; and in each district having a population of two hundred thousand or more there shall be elected one additional full time justice for each additional one hundred thousand persons or fraction thereof. If a district having

one or more full time justices should change in population, for reasons other than change in district boundaries, sufficiently to require a change in the number of judges previously authorized to it, the change shall be made by the county legislative authority without regard to RCW 3.34.010 as now or hereafter amended and shall become effective on the second Monday of January of the year following. Upon any redistricting of the county thereafter the number of justices in the county shall be designated under RCW 3.34.010. In a district having a population of one hundred twenty thousand people or more adjoining a metropolitan county of another state which has a population in excess of five hundred thousand, there shall be one full time justice in addition to the number otherwise allowed by this section and without regard to RCW 3.34.030 or resolution of the county legislative authority. The county legislative authority may by resolution make a part time position a full time office. The county legislative authority may by resolution provide for the election of one full time justice in addition to the number of full time justices authorized. [1984 c 258 § 8; 1982 c 29 § 1; 1973 1st ex.s. c 14 § 2; 1970 ex.s. c 23 § 2; 1969 ex.s. c 66 § 7; 1961 c 299 § 11.]

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

3.34.030 Reallocation of number of justices. Notwithstanding the limitations of RCW 3.34.010 and 3.34.020 in any district having more than one justice of the peace, if any city or town elects to select under the provisions of chapter 3.50 RCW a person other than a justice of the peace to serve as municipal judge, the county legislative authority may reduce the number of justices of the peace required for the county and district by one for each one hundred and fifty thousand persons or fraction thereof residing in all such municipalities, electing to select a municipal judge who is not also a justice of the peace: *Provided*, That in no case shall the number of justices of the peace in any county be less than one for each one hundred thousand persons or major fraction thereof in such county, nor shall the number of justices of the peace in any district be less than one for each one hundred and fifty thousand persons or major fraction thereof. [1984 c 258 § 9; 1969 ex.s. c 66 § 2; 1961 c 299 § 12.]

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

3.34.040 District judges—Full time—Other. A district judge serving a district having a population of forty thousand or more persons, and a district judge receiving a salary greater than the maximum salary provided in RCW 3.58.020(6) shall be deemed full time judges and shall devote all of their time to the office and shall not engage in the practice of law. Other judges shall devote sufficient time to the office to properly fulfill the duties thereof and may engage in other occupations but shall maintain a separate office for private business and shall not use for private business the services of any clerk or secretary paid for by the county or

office space or supplies furnished by the judicial district. [1984 c 258 § 10; 1983 c 195 § 1; 1974 ex.s. c 95 § 2; 1971 ex.s. c 147 § 2; 1961 c 299 § 13.]

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

3.34.050 District judges—Election. At the general election in November, 1962 and quadrennially thereafter, there shall be elected by the voters of each district court district the number of judges authorized for the district by the district court districting plan. Judges shall be elected for each district by the qualified electors of the district in the same manner as judges of courts of record are elected. Not less than ten days before the time for filing declarations of candidacy for the election of judges for districts entitled to more than one judge, the county auditor shall designate each such office of district judge to be filled by a number, commencing with the number one and numbering the remaining offices consecutively. At the time of the filing of the declaration of candidacy, each candidate shall designate by number which one, and only one, of the numbered offices for which he or she is a candidate and the name of the candidate shall appear on the ballot for only the numbered office for which the candidate filed a declaration of candidacy. [1984 c 258 § 11; 1975-'76 2nd ex.s. c 120 § 8; 1961 c 299 § 14.]

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

Severability—1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

3.34.060 District judges—Eligibility and qualifications. To be eligible to file a declaration of candidacy for and to serve as a district court judge, a person must:

- (1) Be a registered voter of the district court district; and
- (2) Be either:
 - (a) A lawyer admitted to practice law in the state of Washington; or
 - (b) A person who has been elected and has served as a justice of the peace, district judge, municipal judge, or police judge in Washington; or
 - (c) In those districts having a population of less than ten thousand persons, a person who has taken and passed the qualifying examination for the office of district judge as shall be provided by rule of the supreme court. [1984 c 258 § 12; 1961 c 299 § 15.]

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

3.34.070 District judges—Term of office. Every district judge shall hold office for a term of four years from and after the second Monday in January next succeeding his or her selection and continuing until a successor is elected and qualified. [1984 c 258 § 13; 1961 c 299 § 16.]

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

3.34.080 Oath—District judges—Court commissioners. Each district judge, district judge pro tempore and district court commissioner shall, before entering upon the duties of office, take an oath to support the Constitution of the United States and the Constitution and laws of the state of Washington, and to perform the duties of the office faithfully and impartially and to the best of his or her ability. [1984 c 258 § 14; 1961 c 299 § 17.]

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

3.34.090 Bonds—Insurance as reimbursable expense. The county legislative authority shall provide for the bonding of each district judge, district judge pro tempore, district court commissioner, clerk of the district court, and court employee, at the expense of the county, in such amount as the county legislative authority shall prescribe, conditioned that each such person will pay over according to law all moneys which shall come into the person's custody in causes filed in the district court. Such bond shall not be less than the maximum amount of money liable to be under the control, at any one time, of each such person in the performance of his or her duties. Such bond may be a blanket bond. If the county obtains errors and omissions insurance covering district court personnel, the costs of such coverage shall be a reimbursable expense pursuant to RCW 3.62.050 as now or hereafter amended. [1984 c 258 § 15; 1971 c 73 § 5; 1961 c 299 § 18.]

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

3.34.100 District judges—Vacancies. If a district judge dies, resigns, is convicted of a felony, ceases to reside in the district, fails to serve for any reason except temporary disability, or if his or her term of office is terminated in any other manner, the office shall be deemed vacant. The county legislative authority shall fill all vacancies by appointment and the judge thus appointed shall hold office until the next general election and until a successor is elected and qualified. District judges shall be granted sick leave in the same manner as other county employees. [1984 c 258 § 16; 1961 c 299 § 19.]

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

3.34.110 District judges—Disqualification. A district judge shall not act as judge in any of the following cases:

(1) In an action to which the judge is a party, or in which the judge is directly interested, or in which the judge has been an attorney for a party.

(2) When the judge or one of the parties believes that the parties cannot have an impartial trial before the judge. Only one change of judges shall be allowed each party under this subsection.

When a judge is disqualified under this section, the case shall be heard before another judge or judge pro

tempore of the same county. [1984 c 258 § 17; 1961 c 299 § 20.]

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

3.34.120 District judges—Disqualification of partners. The partner and associates of a judge who is a lawyer shall not practice law before the judge. [1984 c 258 § 18; 1961 c 299 § 21.]

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

3.34.130 District judges pro tempore—Reduction in salary of judges replaced—Exception—Reimbursement of counties. (Effective until July 1, 1985.) (1) Each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid for each day he or she holds a session one–two hundred fiftieth of the annual salary of a full time district judge. For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the judge in whose place he or she serves shall be reduced by an amount equal to one–two hundred fiftieth of such salary: *Provided*, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves while a district judge is using sick leave granted in accordance with RCW 3.34.100.

(2) The legislature may appropriate money from the judiciary education account to the administrator for the courts pursuant to RCW 2.56.100 for the purpose of reimbursing counties for the salaries of judges pro tempore for certain days in excess of thirty worked per year the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose. [1984 c 258 § 19; 1983 c 195 § 2; 1981 c 331 § 9; 1961 c 299 § 22.]

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

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

3.34.130 Justices of the peace pro tempore—Reduction in salary of justices of the peace replaced—Exception—Reimbursement of counties. (Effective July 1, 1985.) (1) Each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid for each day he or she holds a session one-two hundred fiftieth of the annual salary of a full time district judge. For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the judge in whose place he or she serves shall be reduced by an amount equal to one-two hundred fiftieth of such salary: *Provided*, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves while a district judge is using sick leave granted in accordance with RCW 3.34.100.

(2) The legislature may appropriate money for the purpose of reimbursing counties for the salaries of judges pro tempore for certain days in excess of thirty worked per year that the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (1) of this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose. [1984 c 258 § 302; 1984 c 258 § 19; 1983 c 195 § 2; 1981 c 331 § 9; 1961 c 299 § 22.]

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.

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

3.34.140 Exchange of district judges—Reimbursement for expenses. Any district judge may hold a session in any district in the state, at the request of the judge or majority of judges in the district if the visiting judge determines that the state of business in his or her district allows the judge to be absent. The county legislative authority in which the district court is located shall first approve the temporary absence and the judge pro tempore shall not be required to serve during the judge's absence. A visiting judge shall be entitled to reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state

officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended while so acting, to be paid by the visited district. These expenses shall not be paid to the visiting judge unless the legislative authority of the county in which the visited district is located has approved the payment before the visit. [1984 c 258 § 20; 1981 c 186 § 5; 1961 c 299 § 23.]

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

3.34.150 Presiding judge. If a district has more than one judge, the supreme court may by rule provide for the manner of selection of one of the judges to serve as presiding judge and prescribe the presiding judge's duties. [1984 c 258 § 21; 1961 c 299 § 24.]

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

Chapter 3.38

DISTRICT COURT DISTRICTS

(Formerly: Justice court districts)

Sections

- 3.38.010 Districting committee—Membership.
- 3.38.020 Districting committee—Duties—Districting plan.
- 3.38.022 Location of offices and courtrooms.
- 3.38.030 Districting plan—Adoption.
- 3.38.031 Districting plan—Transitional provisions.
- 3.38.040 Districting plan—Amendment.
- 3.38.050 District court districts—Standards.
- 3.38.060 Joint district court districts.

3.38.010 Districting committee—Membership. There is established in each county a district court districting committee composed of the following:

- (1) The judge of the superior court, or, if there be more than one such judge, then one of the judges selected by that court;
- (2) The prosecuting attorney, or a deputy selected by the prosecuting attorney;
- (3) A practicing lawyer of the county selected by the president of the largest local bar association, if there be one, and if not, then by the county legislative authority;
- (4) A judge of a court of limited jurisdiction in the county selected by the president of the Washington state magistrates' association; and
- (5) The mayor, or representative appointed by the mayor, of each first, second, and third class city of the county;
- (6) One person to represent the fourth class cities of the county, if any, to be designated by the president of the association of Washington cities: *Provided*, That if there should be neither a first class nor a second class city within the county, the mayor, or the mayor's representative, of each fourth class city shall be a member;
- (7) The chairman of the county legislative authority; and
- (8) The county auditor. [1984 c 258 § 22; 1961 c 299 § 25.]

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

3.38.020 Districting committee—Duties—Districting plan. The district court districting committee shall meet at the call of the prosecuting attorney to prepare a plan for the districting of the county into one or more district court districts in accordance with the provisions of chapters 3.30 through 3.74 RCW. The plan shall include the following:

- (1) The boundaries of each district proposed to be established;
- (2) The number of judges to be elected in each district;
- (3) The location of the central office, courtrooms and records of each court;
- (4) The other places in the district, if any, where the court shall sit;
- (5) The number and location of district court commissioners to be authorized, if any;
- (6) The departments, if any, into which each district court shall be initially organized, including municipal departments provided for in chapter 3.46 RCW;
- (7) The name of each district; and
- (8) The allocation of the time and allocation of salary of each judge who will serve part time in a municipal department. [1984 c 258 § 23; 1965 ex.s. c 110 § 1; 1961 c 299 § 26.]

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

3.38.022 Location of offices and courtrooms. The districting plan may provide that the offices and courtrooms of more than one district may be in the same building: *Provided*, That no office or courtroom of any district shall be located further than two miles outside the boundary of the district which it serves. [1984 c 258 § 24; 1963 c 213 § 1.]

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

3.38.030 Districting plan—Adoption. Upon receipt of the districting plan, the county legislative authority shall hold a public hearing, pursuant to the provisions of RCW 36.32.120(7), as now or hereafter amended. At the hearing, anyone interested in the plan may attend and be heard as to the convenience which will be afforded to the public by the plan, and as to any other matters pertaining thereto. If the county legislative authority finds that the plan proposed by the districting committee conforms to the standards set forth in chapters 3.30 through 3.74 RCW and is conducive to the best interests and welfare of the county as a whole it may adopt such plan. If the county legislative authority finds that the plan does not conform to the standards as provided in chapters 3.30 through 3.74 RCW, the county legislative authority may modify, revise or amend the plan and adopt such amended or revised plan as the county's district court districting plan. The plan decided upon shall be adopted by the county legislative authority not later than six months after the classification of the county as class A or the adoption of the elective resolution. [1984 c 258 § 25; 1965 ex.s. c 110 § 2; 1961 c 299 § 27.]

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

3.38.031 Districting plan—Transitional provisions. As a part of the districting plan, the county legislative authority shall designate a date on which the terms of the district judges of the county shall end.

For each judicial position under the districting plan, the county legislative authority shall appoint a person qualified under RCW 3.34.060 who shall take office on the date designated by the county legislative authority and shall serve until the next quadrennial election of district judges as provided in RCW 3.34.050.

Pending cases, proceedings, and matters shall be transferred to the appropriate court as provided in RCW 3.74.900. [1984 c 258 § 26; 1965 ex.s. c 110 § 3.]

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

3.38.040 Districting plan—Amendment. The districting committee may meet for the purpose of amending the districting plan at any time on call of the county legislative authority, the chairperson of the committee or a majority of its members. Amendments to the plan shall be submitted to the county legislative authority not later than March 15th of each year for adoption by the county legislative authority following the same procedure as with the original districting plan. Amendments shall be adopted not later than May 1st following submission by the districting committee. Any amendment which would reduce the salary or shorten the term of any judge shall not be effective until the next regular election for district judge. All other amendments may be effective on a date set by the county legislative authority. [1984 c 258 § 27; 1969 ex.s. c 66 § 3; 1961 c 299 § 28.]

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

3.38.050 District court districts—Standards. District court districts shall be established in accordance with the following standards:

- (1) Every part of the county shall be in some district.
- (2) The whole county may constitute one district.
- (3) There shall not be more districts than there are judges authorized for the county.
- (4) A district boundary shall not intersect the boundary of an election precinct.
- (5) A city shall not lie in more than one district.
- (6) Whenever a county is divided into more than one district, each district shall be so established as best to serve the convenience of the people of the district, considering the distances which must be traveled by parties and witnesses in going to and from the court and any natural barriers which may obstruct such travel. [1984 c 258 § 28; 1961 c 299 § 29.]

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

3.38.060 Joint district court districts. Joint districts may be established containing all or part of two or more counties. The county containing the largest portion of the population of a joint district shall be known as the "principal county" and each joint district shall be deemed to lie within the principal county for the purpose of chapters 3.30 through 3.74 RCW. A joint district may be established by resolution of one county concurred in by a resolution of each other county: *Provided*, That the county legislative authority of a county containing the largest portion of the population of a city may include the portions of such city lying outside the county in a joint district without concurrence of the other counties.

Elections of judges in joint districts shall be conducted and canvassed in the same manner as elections of superior court judges in joint judicial districts. [1984 c 258 § 29; 1961 c 299 § 30.]

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

Chapter 3.42

DISTRICT COURT COMMISSIONERS

(Formerly: Justice court commissioners)

Sections

3.42.010	District court commissioners—Appointment—Qualifications—Term of office.
3.42.020	Powers of commissioners.
3.42.030	Transfer of cases to district judge.
3.42.040	Compensation.

3.42.010 District court commissioners—Appointment—Qualifications—Term of office. When so authorized by the districting plan, one or more district court commissioners may be appointed in any district by the judges of the district. Each commissioner shall be a registered voter of the county in which the district or a portion thereof is located, and shall hold office at the pleasure of the appointing judges. Any person appointed as a commissioner authorized to hear or dispose of cases shall be a lawyer who is admitted to the practice of law in the state of Washington or who has passed the qualifying examination for lay judges as provided under RCW 3.34.060. [1984 c 258 § 30; 1980 c 162 § 7; 1961 c 299 § 31.]

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

Severability—1980 c 162: See note following RCW 3.02.010.

District court commissioners

bond: RCW 3.34.090.

oath: RCW 3.34.080.

3.42.020 Powers of commissioners. Each district court commissioner shall have such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and shall prescribe. [1984 c 258 § 31; 1979 ex.s. c 136 § 16; 1961 c 299 § 32.]

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

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.42.030 Transfer of cases to district judge. Any party may have a case transferred from a district court commissioner to a judge of the same district for hearing, by filing a motion for transfer. The commissioner shall forthwith transfer the case to the judge. [1984 c 258 § 32; 1961 c 299 § 33.]

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

3.42.040 Compensation. District court commissioners shall receive such compensation as the county legislative authority or city council shall provide. [1984 c 258 § 33; 1969 ex.s. c 66 § 4; 1961 c 299 § 34.]

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

District court commissioners

salary: RCW 3.46.090 and 3.58.030.

travel expenses: RCW 3.58.040.

Chapter 3.46

MUNICIPAL DEPARTMENTS

Sections

3.46.010	Municipal department authorized.
3.46.020	Judges.
3.46.040	Petition.
3.46.060	Selection of part time judges.
3.46.070	Election.
3.46.080	Term and removal.
3.46.090	Salary—City cost.
3.46.100	Vacancy.
3.46.120	Revenue—Disposition. (Effective July 1, 1985.)
3.46.150	Termination of municipal department—Agreement covering costs of handling resulting criminal cases—Arbitration.

3.46.010 Municipal department authorized. Any city may secure the establishment of a municipal department of the district court, to be designated "The Municipal Department of (city)." Such department may also be designated "The Municipal Court of (city)." [1984 c 258 § 72; 1961 c 299 § 35.]

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

3.46.020 Judges. Each judge of a municipal department shall be a judge of the district court in which the municipal department is situated. Such judge may be alternately designated as a municipal judge or police judge. [1984 c 258 § 73; 1961 c 299 § 36.]

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

3.46.040 Petition. Establishment of a municipal department shall be initiated by a petition from the legislative body of the city to the county legislative authority. Such petition shall be filed not less than thirty days prior to February 1, 1962, or any subsequent year, and shall set forth: (1) The number of full time and part time judges required for the municipal department; (2) The amount of time for which a part time judge will be required for the municipal department; and (3) Whether

the full time judge or judges will be elected or appointed. In a petition filed subsequent to 1962 provision shall be made for temporary appointment of a municipal judge to fill each elective position until the next election for district judges. The petition shall be forthwith transmitted to the districting committee. The organization of the municipal department shall be incorporated into the districting plan. The districting committee in its plan shall designate the proportion of the salary of each judge serving as a part time municipal judge to be paid by the city, which shall be proportionate to the time of such judge allotted to the municipal department by the districting plan. A city may withdraw its petition any time prior to adoption of the districting plan by the county legislative authority, and thereupon the municipal department pursuant to this chapter shall not be established. [1984 c 258 § 74; 1961 c 299 § 38.]

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

3.46.060 Selection of part time judges. In district court districts having more than one judge, appointment of part time municipal judges shall be made from the judges of the district by the mayor in such manner as the city legislative body shall determine. [1984 c 258 § 75; 1961 c 299 § 40.]

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

3.46.070 Election. In each district court district where an election is held for the position of municipal judge, the county auditor, prior to the date for filing declarations for the office of district judge, shall designate the proper number of municipal judge positions, commencing with number one, and if there is more than one municipal judge in any municipal department, one or more positions may, at the request of the legislative body of the city, be further designated as municipal traffic judge positions. Only voters of the city shall vote for municipal judges. [1984 c 258 § 76; 1961 c 299 § 41.]

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

3.46.080 Term and removal. A municipal judge shall serve in such capacity for his or her term as district judge and may be removed from so serving in the same manner and for the same reasons as he or she may be removed from the office of district judge. [1984 c 258 § 77; 1961 c 299 § 42.]

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

3.46.090 Salary—City cost. The salary of a full time municipal judge shall be paid wholly by the city. The salary of a district judge serving a municipal department part time shall be paid jointly by the county and the city in the same proportion as the time of the judge has been allocated to each. Salaries of court commissioners serving the municipal department shall be

paid by the city. [1984 c 258 § 78; 1969 ex.s. c 66 § 5; 1961 c 299 § 43.]

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

3.46.100 Vacancy. A vacancy in a position of full time municipal judge shall be filled for the unexpired term by appointment in such manner as the city may determine. In districts having more than one judge, a vacancy in a position of part time municipal judge shall be filled for the unexpired term by appointment in such manner as the city shall determine from the judges of the district, including any judge appointed by the county commissioners to fill an unexpired term. [1984 c 258 § 79; 1961 c 299 § 44.]

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

3.46.120 Revenue—Disposition. (Effective July 1, 1985.) (1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs assessed and collected in whole or in part by the court shall be paid by the clerk to the city treasurer.

(2) The city treasurer shall remit monthly thirty-five percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law. [1984 c 258 § 303; 1975 1st ex.s. c 241 § 4; 1961 c 299 § 46.]

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

Legislative intent—1984 c 258 §§ 302–340: "It is the intent of the legislature to assure accountability, uniformity, economy, and efficiency in the collection and distribution by superior, district, and municipal courts of fees, fines, forfeitures, and penalties assessed and collected for violations of state statutes, and county, city, and town ordinances." [1984 c 258 § 301.]

3.46.150 Termination of municipal department—Agreement covering costs of handling resulting criminal cases—Arbitration. Any city, having established a municipal department as provided in this chapter may, by written notice to the county legislative authority not less than thirty days prior to February 1st of any year, require the termination of the municipal department created pursuant to this chapter. However, the city may not give the written notice required by this section unless the city has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered

into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 210; 1961 c 299 § 49.]

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

Chapter 3.50

MUNICIPAL DEPARTMENTS—ALTERNATE PROVISION

Sections

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- 3.50.805 Termination of municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration—Repeal of municipal criminal code—Agreement—Arbitration—Repeal of a municipal crime equivalent to offense in RCW 46.63.020—Agreement—Arbitration.

3.50.003 Definition. "Mayor," as used in this chapter, means the chief administrative officer of the city. [1984 c 258 § 125.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.005 Legislative finding—Alternative court structure for cities and towns of four hundred thousand or less. The legislature finds that there is a multitude of statutes governing the municipal courts of the state. This situation is confusing and misleading to attorneys, judges, court personnel, and others who work with the municipal courts. The legislature therefore finds that a reorganization of the municipal courts of the state would allow those courts to operate in a more effective and efficient manner. This chapter provides a court structure which may be used by cities and towns with a population of four hundred thousand or less which choose to operate under this chapter. [1984 c 258 § 101.]

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

Application—1984 c 258 §§ 101–139: "The enactment of sections 101 through 139 of this act shall not affect any case, proceeding, appeal, or other matter pending in any court operating under Title 35 or 35A RCW on the effective date of this act [July 1, 1984]. The enactment of sections 101 through 139 of this act shall not have the effect of terminating or in any way modifying any right or liability, civil or criminal, which may be in existence on the effective date of this act [July 1, 1984]." [1984 c 258 § 128.] For disposition of sections 101 through 139 of this act, see Codification Tables, this volume.

3.50.007 Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW—Municipal judges in office on July 1, 1984—Terms. After January 1, 1985, cities and towns with a population of four hundred thousand or less which are operating a municipal court under Title 35 or 35A RCW shall operate the court pursuant to this chapter. In the alternative, a city or town may establish a municipal department of a district court under chapter 3.46 RCW.

Municipal judges holding office on July 1, 1984, shall continue to hold office until expiration of their term or January 1, 1986, whichever occurs first. [1984 c 258 § 102.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.010 Municipal court authorized in cities of four hundred thousand or less. Any city or town with a population of four hundred thousand or less may by ordinance provide for an inferior court to be known and designated as a municipal court, which shall be entitled

"The Municipal Court of ----- (insert name of city or town)", hereinafter designated and referred to as "municipal court", which court shall have jurisdiction and shall exercise all powers by this chapter declared to be vested in the municipal court, together with such other powers and jurisdiction as are generally conferred upon such court in this state either by common law or by express statute. [1984 c 258 § 103; 1961 c 299 § 50.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.020 Jurisdiction. The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. [1984 c 258 § 104; 1979 ex.s. c 136 § 17; 1961 c 299 § 51.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.50.030 Violations bureau for traffic cases—Disposition of moneys collected. Every city or town may establish and operate under the supervision of the municipal court a violations bureau to assist the court in processing traffic cases. Each municipal court shall designate the specific traffic offenses and traffic infractions under city or town ordinances which may be processed by the violations bureau.

A violations bureau may be authorized to process traffic infractions in conformity with chapter 46.63 RCW.

A violations bureau may be authorized to receive the posting of bail for specified offenses and, to the extent authorized by court order, permitted to accept forfeiture of bail and payment of penalties. Any violations bureau, upon accepting the prescribed bail, shall issue a receipt therefor to the alleged violator, acknowledging the posting thereof and informing the accused of the legal consequences of bail forfeiture. Any person charged with any criminal traffic offense within the authority of the violations bureau may, upon signing a written appearance, a written plea of guilty and a written waiver of trial, pay to the violations bureau the fine established for the offense charged and costs and this shall have the same effect as a court conviction. All penalties and forfeitures paid to a violations bureau for the violation of

municipal ordinance shall be placed in the city or town general fund or such other fund as may be prescribed by ordinance of the city or town or laws of the state of Washington.

Any employees of an existing violations bureau of any city shall continue as city employees. [1984 c 258 § 105; 1979 ex.s. c 136 § 18; 1961 c 299 § 52.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

3.50.040 Municipal judges—Appointed—Terms, qualifications—District judge as part time municipal judge. Within thirty days after the effective date of the ordinance creating the municipal court, the mayor of each city or town shall appoint a municipal judge or judges of the municipal court for a term of four years. The terms of judges serving on July 1, 1984, and municipal judges who are appointed to terms commencing before January 1, 1986, shall expire January 1, 1986. The terms of their successors shall commence on January 1, 1986, and on January 1 of each fourth year thereafter, pursuant to appointment or election as provided in this chapter. Appointments shall be made on or before December 1 of the year next preceding the year in which the terms commence.

The legislative authority of a city or town that has the general power of confirmation over mayoral appointments shall have the power to confirm the appointment of a municipal judge.

A person appointed as a full-time or part-time municipal judge shall be a citizen of the United States of America and of the state of Washington; and an attorney admitted to practice law before the courts of record of the state of Washington: *Provided*, That in a municipality having a population less than five thousand persons, a person other than an attorney may be the judge. Any city or town shall have authority to appoint a district judge as its municipal judge when the municipal judge is not required to serve full time. In the event of the appointment of a district judge, the city or town shall pay a pro rata share of the salary. [1984 c 258 § 106; 1975-'76 2nd ex.s. c 35 § 1; 1961 c 299 § 53.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.050 Municipal judge may be elective position—Qualifications, term. The legislative authority of the city or town may, by ordinance, provide that the position of municipal judge within the city or town shall be an elective position. The ordinance shall provide for the qualifications of the municipal judge which shall be the same as the qualifications necessary for the appointment thereof; and further, shall provide that the municipal judge shall be elected in the same manner as other elective city officials are elected to office, and that the term of the municipal judge shall be for a term of four years

commencing on January 1, 1986, and every four years thereafter. [1984 c 258 § 107; 1961 c 299 § 54.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.060 Termination of municipal court—Requirements—Establishment of court. A city or town electing to establish a municipal court pursuant to this chapter may terminate such court by adoption of an appropriate ordinance. However no municipal court may be terminated unless the municipality has complied with RCW 3.50.805, 35.22.425, 35.23.595, 35.24.455, 35.27.515, 35.30.100, and 35A.11.200.

A city or town newly establishing a municipal court pursuant to this chapter shall do so by adoption of an appropriate ordinance on or before December 1 of any year, to take effect January 1 of the following year. [1984 c 258 § 108; 1961 c 299 § 55.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.070 Additional judges—Appointment, election. Additional full or part time judges may be appointed or elected, as provided by ordinance of the legislative body of the city or town when public interest and the administration of justice makes such additional judge or judges necessary. [1984 c 258 § 109; 1961 c 299 § 56.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.080 Salaries of judges—Payment of court operating costs from city funds—Judges and employees as city employees. Salaries of municipal court judges shall be fixed by ordinance. All costs of operating the municipal court, including but not limited to salaries of judges and court employees, dockets, books of records, forms, furnishings, and supplies, shall be paid wholly out of the funds of the city or town. The city shall provide a suitable place for holding court and pay all expenses of maintaining it.

All employees of the municipal court shall, for all purposes, be deemed employees of the city or town. They shall be appointed by and serve at the pleasure of the court. [1984 c 258 § 111; 1961 c 299 § 57.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.090 Judges pro tem. The mayor shall, in writing, appoint judges pro tem who shall act in the absence or disability of the regular judge of a municipal court or subsequent to the filing of an affidavit of prejudice. The judges pro tem shall be qualified to hold the position of judge of the municipal court as provided herein. The

municipal court judges pro tem shall receive such compensation as shall be fixed by the ordinances of the legislative body of the city or town wherein the municipal court is located. The term of the appointment shall be specified in writing but in any event shall not extend beyond the term of the appointing mayor. [1984 c 258 § 112; 1961 c 299 § 58.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.093 Municipal judge—Vacancy—Appointment. Any vacancy in the municipal court due to a death, disability, or resignation of a municipal court judge shall be filled by the mayor, for the remainder of the unexpired term. The appointment shall be subject to confirmation by the legislative authority of the city or town if the legislative authority has the general power of confirmation over mayoral appointments. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter. [1984 c 258 § 113.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.095 Municipal judge—Removal from office. A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office. [1984 c 258 § 124.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.097 Judge's oath—Bonds. Every judge of a municipal court, before entering upon the duties of the office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge of the municipal court of the city of _____ (naming such city) according to the best of my ability." The oath shall be filed in the office of the county auditor. The judge shall also give such bonds to the state and city for the faithful performance of the judge's duties as may be by law or ordinance directed. [1984 c 258 § 110.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.100 Revenue—Disposition. (Effective July 1, 1985.) (1) Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs, fines, forfeitures and other money imposed by any municipal court for the violation of any municipal or town

ordinances shall be collected by the court clerk and, together with any other revenues received by the clerk, shall be deposited with the city or town treasurer as a part of the general fund of the city or town, or deposited in such other fund of the city or town, or deposited in such other funds as may be designated by the laws of the state of Washington.

(2) The city treasurer shall remit monthly thirty-five percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law. [1984 c 258 § 304; 1975 1st ex.s. c 241 § 3; 1961 c 299 § 59.]

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.

3.50.110 Sessions. The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the legislative body of the city or town: *Provided*, That the municipal court shall not be open on nonjudicial days. [1984 c 258 § 114; 1961 c 299 § 60.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.115 Municipal court seal. The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of ----- (name of city), State of Washington," surrounding the vignette. [1984 c 258 § 123.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.125 Transfer within municipal court. A transfer of a case from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings. [1984 c 258 § 122.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.135 Request for jury trial in civil cases—Exception—Fee—Juror compensation—Jury trials in criminal cases. In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six

citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: *Provided*, That no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: *Provided*, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. Jury trials shall be allowed in all criminal cases unless waived by the defendant. [1984 c 258 § 126.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.140 through 3.50.290 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.300 Execution of sentence—Jail in lieu of fine and costs, computation. In all cases of conviction, unless otherwise provided in chapters 3.30 through 3.74 RCW as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court. [1984 c 258 § 115; 1969 c 84 § 1; 1961 c 299 § 79.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

3.50.310 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.320 Deferral of sentence—Change of plea, dismissal. After a conviction, the court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the

plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges. [1984 c 258 § 116; 1983 c 156 § 5; 1961 c 299 § 81.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.330 Continuing jurisdiction of court after sentence. For a period not to exceed two years after imposition of sentence, the court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. [1984 c 258 § 117; 1983 c 156 § 6; 1961 c 299 § 82.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.340 Revocation of deferred or suspended sentence—Limitations—Termination of probation. Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held. [1984 c 258 § 118; 1983 c 156 § 7; 1961 c 299 § 83.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.350 through 3.50.420 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.425 Issuance of criminal process. All criminal process issued by the municipal court shall be in the name of the state of Washington and run throughout the state, and be directed to and served by the chief of police, marshal, or other police officer of any city or to any sheriff in the state. [1984 c 258 § 127.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.430 Criminal prosecution in city's name for violation of ordinances. All criminal prosecutions for the violation of a city ordinance shall be conducted in the

name of the city and may be upon the complaint of any person. [1984 c 258 § 119; 1961 c 299 § 92.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.440 Penalty if no other punishment prescribed. Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment. [1984 c 258 § 120; 1961 c 299 § 93.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.450 Pleadings, practice and procedure not provided for governed by district court law. Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to district courts. [1984 c 258 § 121; 1961 c 299 § 94.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.460 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.470 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.50.800 Repeal of municipal criminal code—Agreement covering costs of handling resulting criminal cases—Arbitration—Renewal. (1) If a municipality has, prior to July 1, 1984, repealed in its entirety that portion of its municipal code defining crimes but continues to hear and determine traffic infraction cases under chapter 46.63 RCW in a municipal court, the municipality and the appropriate county shall, prior to January 1, 1985, enter into an agreement under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs incurred after January 1, 1985, associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. If the municipality and the county cannot come to an agreement within the time prescribed by this section, they shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

(2) The agreement between the municipality and the county shall include provisions for periodic review and

renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 202.]

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

3.50.805 Termination of municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration—Repeal of municipal criminal code—Agreement—Arbitration—Repeal of a municipal crime equivalent to offense in RCW 46.63.020—Agreement—Arbitration. (1) A municipality operating a municipal court under this chapter shall not terminate that court unless the municipality has reached an agreement with the appropriate county or another municipality under chapter 39.34 RCW under which the county or municipality is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district or municipal court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county or municipality are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county or municipality have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. A municipality that has entered into agreements with other municipalities that have terminated their municipal courts may not thereafter terminate its court unless each municipality has reached an agreement with the appropriate county in accordance with this section.

(2) A municipality operating a municipal court under this chapter may not repeal in its entirety that portion of its municipal code defining crimes while retaining the court's authority to hear and determine traffic infractions under chapter 46.63 RCW unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain

in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

(3) A municipality operating a municipal court under this chapter may not repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 203.]

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

Chapter 3.54 CLERKS AND DEPUTY CLERKS

Sections
3.54.010 Compensation.

3.54.010 Compensation. The clerk and deputy clerks of district courts shall receive such compensation as shall be provided by the county legislative authority. [1984 c 258 § 34; 1971 c 73 § 6; 1961 c 299 § 98.]

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

Chapter 3.58 SALARIES AND EXPENSES

Sections
3.58.020 Salaries of part time district judges.
3.58.030 Payment of salaries.
3.58.040 Travel expenses.
3.58.050 Other court expenses—Lease, construction, of court-rooms and offices.

3.58.020 Salaries of part time district judges. The annual salaries of part time district judges shall be set by the county legislative authority in each county in accordance with the minimum and maximum salaries provided in this subsection:

(1) In districts having a population under two thousand five hundred persons, the salary shall be not less than one thousand five hundred dollars nor more than twelve thousand dollars;

(2) In districts having a population of two thousand five hundred persons or more, but less than five thousand, the salary shall be set at not less than one thousand eight hundred dollars nor more than fifteen thousand five hundred dollars;

(3) In districts having a population of five thousand persons or more, but less than seven thousand five hundred, the salary shall be set at no less than one thousand eight hundred or more than twenty-five thousand dollars;

(4) In districts having a population of seven thousand five hundred persons or more, but less than ten thousand, the salary shall be set at not less than two thousand two hundred fifty dollars or more than thirty thousand dollars;

(5) In districts having a population of ten thousand persons or more, but less than twenty thousand, the salary shall be set at no less than three thousand dollars or more than thirty-two thousand dollars;

(6) In districts having a population of twenty thousand persons or more, but less than thirty thousand, the salary shall be set at not less than five thousand two hundred fifty dollars or more than forty thousand dollars. [1984 c 258 § 35; 1982 c 29 § 2; 1979 ex.s. c 255 § 9; 1974 ex.s. c 95 § 1; 1969 ex.s. c 192 § 1; 1961 c 299 § 101.]

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

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

District judges—Full time—Other: RCW 3.34.040.

3.58.030 Payment of salaries. The compensation of judges, clerks, judges pro tempore, deputy clerks, and court commissioners payable by the county shall be paid monthly out of the county treasury from the same funds out of which other salaried county officers are paid. [1984 c 258 § 36; 1961 c 299 § 102.]

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

3.58.040 Travel expenses. District judges, judges pro tempore, court commissioners, and district court employees shall receive their reasonable traveling expenses when engaged in the business of the court as provided in chapter 42.24 RCW. [1984 c 258 § 37; 1983 c 3 § 3; 1961 c 299 § 103.]

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

3.58.050 Other court expenses—Lease, construction, of courtrooms and offices. The county legislative authority shall furnish all necessary facilities for the district courts, including suitable courtrooms, furniture, books, stationery, postage, office equipment, heat, light and telephone and may lease or construct courtrooms and offices for such purpose. The county legislative authority shall not be required to furnish courtroom space in any place other than as provided in the districting plan. [1984 c 258 § 38; 1963 c 213 § 3; 1961 c 299 § 104.]

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

Chapter 3.62 INCOME OF COURT

Sections	
3.62.010	Suspension of fine or penalty. (Effective July 1, 1985.)
3.62.015	Repealed. (Effective July 1, 1985.)
3.62.020	Fees, fines, forfeitures and penalties except city cases—Disposition. (Effective July 1, 1985.)
3.62.040	Costs, fines, forfeitures and penalties from city cases—Disposition. (Effective July 1, 1985.)
3.62.050	Court expenditures to be paid from county current expense fund—Exception. (Effective July 1, 1985.)
3.62.055	Repealed. (Effective July 1, 1985.)
3.62.060	Filing fees in civil cases. (Effective July 1, 1985.)
3.62.070	Filing fees in criminal cases and traffic infractions.
3.62.080	Repealed. (Effective July 1, 1985.)
3.62.090	Public safety and education assessment—Amount. (Effective July 1, 1985.)

3.62.010 Suspension of fine or penalty. (Effective July 1, 1985.) The district court may at the time of sentencing or at any time thereafter suspend a portion or all of a fine or penalty. [1984 c 258 § 305; 1961 c 299 § 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.

3.62.015 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.62.020 Fees, fines, forfeitures and penalties except city cases—Disposition. (Effective July 1, 1985.) (1) Except as provided in subsection (4) of this section, all fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the division of municipal corporations, noting the information necessary for crediting of such funds as required by law.

(2) The county treasurer shall remit thirty-five percent of the money received under subsection (1) of this section to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund.

(4) All money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund. [1984 c 258 § 306; 1971 c 73 § 8; 1969 ex.s. c 199 § 2; 1961 c 299 § 106.]

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.

3.62.040 Costs, fines, forfeitures and penalties from city cases—Disposition. (Effective July 1, 1985.) (1) Except as provided in subsection (4) of this section, all costs, fines, forfeitures and penalties assessed and collected, in whole or in part, by district courts because of violations of city ordinances shall be remitted by the clerk of the district court at least monthly directly to the treasurer of the city wherein the violation occurred.

(2) The city treasurer shall remit monthly thirty-five percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

(4) All money collected for city parking infractions shall be remitted by the clerk of the district court at least monthly to the city treasurer for deposit in the city's general fund. [1984 c 258 § 307; 1975 1st ex.s. c 241 § 2; 1961 c 299 § 108.]

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.

3.62.050 Court expenditures to be paid from county current expense fund—Exception. (Effective July 1, 1985.) The total expenditures of the justice courts, including the cost of providing courtroom and office space, the cost of probation and parole services and any personnel employment therefor, and the cost of providing services necessary for the preparation and presentation of a defense at public expense, except costs of defense to be paid by a city pursuant to RCW 3.62.070, shall be paid from the county current expense fund. [1984 c 258 § 308; 1973 1st ex.s. c 10 § 1; 1969 ex.s. c 199 § 3; 1969 c 111 § 1; 1963 c 213 § 2; 1961 c 299 § 109.]

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.

3.62.055 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.62.060 Filing fees in civil cases. (Effective July 1, 1985.) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of twenty dollars. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action. [1984 c 258 § 309; 1981 c 330 § 1; 1980 c 162 § 9; 1969 c 25 § 1; 1965 c 55 § 1; 1961 c 299 § 110.]

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.

Severability—1981 c 330: "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 330 § 11.]

Effective dates, savings—Severability—1980 c 162: See notes following RCW 3.02.010.

3.62.070 Filing fees in criminal cases and traffic infractions. Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee determined pursuant to an agreement as provided for in chapter 39.34 RCW, the interlocal cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: *Provided*, That in such cases, for the purposes of RCW 3.62.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs. In the event no agreement is reached between a municipal corporation and the county providing the court service within ninety days of September 1, 1979, the municipal corporation and the county shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW, and the municipal corporation and the county shall be entitled to the same rights and subject to the same duties as other parties who have agreed to submit to arbitration pursuant to chapter 7.04 RCW. In the event that such issue is submitted to arbitration, the arbitrator or arbitrators shall only consider those additional costs borne by the county in providing district court services for such city. [1984 c 258 § 39; 1980 c 128 § 14; 1979 ex.s. c 129 § 1; 1973 1st ex.s. c 10 § 2; 1961 c 299 § 111.]

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

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

3.62.080 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

3.62.090 Public safety and education assessment—Amount. (Effective July 1, 1985.) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section

shall not be suspended or waived by the court. [1984 c 258 § 337.]

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.

Chapter 3.66

JURISDICTION AND VENUE

Sections

3.66.010	General powers of district court.
3.66.020	Civil jurisdiction.
3.66.040	Venue—Civil action.
3.66.050	Transfer of proceedings.
3.66.060	Criminal jurisdiction.
3.66.065	Assessment of punishment.
3.66.067	Assessment of punishment—Deferral of sentence, probation—Withdrawal of plea and dismissal of charges.
3.66.070	Venue—Criminal actions.
3.66.080	Criminal venue corrected.
3.66.090	Change of venue.
3.66.100	Territorial jurisdiction—Process.

3.66.010 General powers of district court. The justices of the peace elected in accordance with chapters 3.30 through 3.74 RCW are authorized to hold court as judges of the district court for the trial of all actions enumerated in chapters 3.30 through 3.74 RCW or assigned to the district court by law; to hear, try, and determine the same according to the law, and for that purpose where no special provision is otherwise made by law, such court shall be vested with all the necessary powers which are possessed by courts of record in this state; and all laws of a general nature shall apply to such district court as far as the same may be applicable and not inconsistent with the provisions of chapters 3.30 through 3.74 RCW. The district court shall, upon the demand of either party, impanel a jury to try any civil or criminal case in accordance with the provisions of chapter 12.12 RCW. No jury trial may be held in a proceeding involving a traffic infraction. [1984 c 258 § 40; 1979 ex.s. c 136 § 20; 1961 c 299 § 112.]

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

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Powers and jurisdiction of district court commissioner: RCW 3.42.020.

3.66.020 Civil jurisdiction. The district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

(1) Of an action arising on contract for the recovery of money only in which the sum claimed does not exceed seven thousand five hundred dollars;

(2) Of an action for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised by the answer involves the plaintiff's title to or possession of the same, when the amount of damages claimed does not exceed seven thousand five hundred dollars; also of actions to recover the possession of personal property when the value of such

property as alleged in the complaint, does not exceed seven thousand five hundred dollars;

(3) Of an action for a penalty not exceeding seven thousand five hundred dollars;

(4) Of an action upon a bond conditioned for the payment of money, when the amount claimed does not exceed seven thousand five hundred dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Of an action on an undertaking or surety bond taken by the court, when the amount claimed does not exceed seven thousand five hundred dollars;

(6) Of an action for damages for fraud in the sale, purchase, or exchange of personal property, when the damages claimed do not exceed seven thousand five hundred dollars;

(7) To take and enter judgment on confession of a defendant, when the amount of the judgment confessed does not exceed seven thousand five hundred dollars;

(8) To issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects, when the amount does not exceed seven thousand five hundred dollars; and

(9) Of all other actions and proceedings of which jurisdiction is specially conferred by statute, when the amount involved does not exceed seven thousand five hundred dollars and the title to, or right of possession of, or a lien upon real property is not involved.

The seven thousand five hundred dollar amounts provided in subsections (1) through (9) of this section shall remain in effect until June 30, 1985; effective July 1, 1985, such amount shall be increased to ten thousand dollars.

The amounts of money referred to in this section shall be exclusive of interest, costs and attorney's fees. [1984 c 258 § 41; 1981 c 331 § 7; 1979 c 102 § 3; 1965 c 95 § 1; 1961 c 299 § 113.]

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

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Application, savings—1979 c 102: "Sections 2, 3, and 4 of this 1979 amendatory act upon taking effect shall apply to all actions filed on or after December 8, 1977. Any party to an action which is pending on the effective date of this act shall be permitted to amend any pleadings to reflect such increase in court jurisdiction: *Provided*, That nothing in this act shall affect the validity of judicial acts taken prior to its effective date." [1979 c 102 § 5.]

Severability—1979 c 102: "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." [1979 c 102 § 6.]

Effective date—1979 c 102: "Sections 2 through 5 of this 1979 amendatory 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 May 1, 1979." [1979 c 102 § 7.]

3.66.040 Venue—Civil action. (1) An action arising under RCW 3.66.020 (1), (2) except for the recovery of possession of personal property, (4), (6), (7), and (9) may be brought in any district in which the defendant, or, if there be more than one defendant, where some

one of the defendants, resides at the time the complaint is filed or in which the defendant, or if there be more than one defendant, where some one of the defendants may be served with the notice and complaint in which latter case, however, the district where the defendant or defendants is or are served must be within the county in which the said defendant or defendants reside.

(2) An action arising under RCW 3.66.020(2) for the recovery of possession of personal property and RCW 3.66.020(8) shall be brought in the district in which the subject matter of the action or some part thereof is situated.

(3) An action arising under RCW 3.66.020 (3) and (5) shall be brought in the district in which the cause of action, or some part thereof arose.

(4) An action arising under RCW 3.66.020(2) for the recovery of damages for injuries to the person or for injury to personal property arising from a motor vehicle accident may be brought, at the plaintiff's option, either in the district in which the cause of action, or some part thereof, arose, or in the district in which the defendant, or, if there be more than one defendant, where some one of the defendants, resides at the time the complaint is filed.

(5) An action against a nonresident of this state may be brought in any district where service of process may be had, or in which the cause of action or some part thereof arose, or in which the plaintiff or one of them resides.

(6) For the purposes of chapters 3.30 through 3.74 RCW, the residence of a corporation defendant shall be deemed to be in any district where the corporation transacts business or has an office for the transaction of business or transacted business at the time the cause of action arose or where any person resides upon whom process may be served upon the corporation, unless herein otherwise provided. [1984 c 258 § 42; 1961 c 299 § 115.]

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

3.66.050 Transfer of proceedings. If a civil action is brought in the wrong district, the action may nevertheless be tried therein unless the defendant, at the time the defendant appears, requests a transfer of the action to the proper district. Upon such demand an order shall be entered transferring the action to the proper district and awarding the defendant a reasonable attorney's fee to be paid by the plaintiff. [1984 c 258 § 43; 1961 c 299 § 116.]

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

3.66.060 Criminal jurisdiction. The district court shall have jurisdiction: (1) Concurrent with the superior court of all misdemeanors and gross misdemeanors committed in their respective counties and of all violations of city ordinances. It shall in no event impose a greater punishment than a fine of five thousand dollars, or imprisonment for one year in the county or city jail as the case may be, or both such fine and imprisonment, unless

otherwise expressly provided by statute. It may suspend and revoke vehicle operators' licenses in the cases provided by law; (2) to sit as a committing magistrate and conduct preliminary hearings in cases provided by law; (3) concurrent with the superior court of a proceeding to keep the peace in their respective counties; (4) concurrent with the superior court of all violations under Title 75 RCW; and (5) to hear and determine traffic infractions under chapter 46.63 RCW. [1984 c 258 § 44; 1983 1st ex.s. c 46 § 176; 1982 c 150 § 1; 1961 c 299 § 117.]

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

Intent—Savings—Effective date—1983 1st ex.s. c 46: See RCW 75.98.005 through 75.98.007.

Violations under Title 75 RCW (Fisheries Code), concurrent jurisdiction: RCW 75.10.060.

3.66.065 Assessment of punishment. If a defendant is found guilty, a judge holding office pursuant to chapters 3.30 through 3.74 RCW, or chapter 35.20 RCW, and not the jury, shall assess punishment, notwithstanding the provisions of RCW 10.04.100. If the judge determines that the punishment authorized is inadequate compared to the gravity of the offense he or she may order such defendant to enter recognizance to appear in the superior court of the county and may also recognize the witnesses and shall proceed as a committing magistrate. [1984 c 258 § 45; 1975 c 29 § 1; 1965 ex.s. c 110 § 7.]

Sentence and judgment: Rules of court: JCrR 5.04.

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

3.66.067 Assessment of punishment—Deferral of sentence, probation—Withdrawal of plea and dismissal of charges. After a conviction, the court may defer sentencing the defendant and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty and to enter a plea of not guilty, and the court may dismiss the charges. [1984 c 258 § 46; 1983 c 156 § 1; 1969 c 75 § 1.]

Rules of court: ER 410.

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

3.66.070 Venue—Criminal actions. All criminal actions shall be brought in the district where the alleged violation occurred: *Provided*, That (1) the prosecuting attorney may file felony cases in the district in which the county seat is located, (2) with the consent of the defendant criminal actions other than those arising out of violations of city ordinances may be brought in or transferred to the district in which the county seat is located, and (3) if the alleged violation relates to driving, or being in actual physical control of, a motor vehicle while intoxicated and the alleged violation occurred within a judicial district which has been designated an enhanced enforcement district under RCW 2.56.110, the charges

may be filed in that district or in a district within the same county which is adjacent to the district in which the alleged violation occurred. [1984 c 258 § 47; 1983 c 165 § 32; 1961 c 299 § 118.]

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

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

3.66.080 Criminal venue corrected. If a criminal action is commenced in an improper district under RCW 3.66.070, the court may of its own volition or at the request of either party order the case removed for trial to a proper district. [1984 c 258 § 48; 1961 c 299 § 119.]

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

3.66.090 Change of venue. A change of venue may be allowed upon motion:

(1) Where there is reason to believe that an impartial trial cannot be had in the district or municipal court in which the action was commenced; or

(2) Where the convenience of witnesses or the ends of justice would be forwarded by the change.

When such change is ordered, it shall be to the district court of another district in the same county, if any, otherwise to the district court of an adjacent district in another county: *Provided*, That where an affidavit of prejudice is filed against a judge of a municipal court the cause shall be transferred to another department of the municipal court, if one exists, otherwise to a judge pro tempore appointed in the manner prescribed by law. The court to which a case is removed on change of venue under this section shall have the same jurisdiction, either civil or criminal to hear and determine the case as the court from which the case was removed. [1984 c 258 § 49; 1967 c 241 § 1; 1961 c 299 § 120.]

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

Application—1967 c 241: "The provisions of this 1967 amendatory act shall apply only to those cities as to which the law requires that the judge be a qualified attorney." [1967 c 241 § 10.] This 1967 amendatory act [1967 c 241] is codified as RCW 3.66.090, 35.20.100, 35.20.130, 35.20.190, 35.22.485, 35.23.625, 35.23.620, 35.24.465 and 35.27.535.

3.66.100 Territorial jurisdiction—Process. (1) Every district judge having authority to hear a particular case may issue criminal process in and to any place in the state.

(2) Notwithstanding any provision in the justice court civil rules to the contrary, every district judge having authority to hear a particular case may issue civil process in and to any place in the state. [1984 c 258 § 701; 1961 c 299 § 121.]

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

Issue of process in traffic infraction cases: RCW 46.63.130.

Chapter 3.70 MAGISTRATES' ASSOCIATION

Sections

3.70.010	Magistrates' association established.
3.70.020	Meetings.
3.70.030	Expenses of members.
3.70.040	Powers and duties.

3.70.010 Magistrates' association established. There is established in the state an association, to be known as the Washington state magistrates' association, membership in which shall include all duly elected or appointed and qualified judges of courts of limited jurisdiction, including but not limited to district judges, police court judges and municipal court judges. [1984 c 258 § 50; 1961 c 299 § 123.]

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

3.70.020 Meetings. The first meeting of the Washington state magistrates' association shall be held at the next regular meeting of the present organization after June 7, 1961 to be held during the month of August or September, 1961, at which meeting those judges of courts of limited jurisdiction, as provided in RCW 3.70.010, attending shall temporarily organize themselves for the purpose of adopting a Constitution and bylaws and may either adopt or amend the present Constitution and bylaws of the Washington state magistrates' association or provide for bylaws only, electing officers as provided therein and doing all things necessary and proper to formally establish a permanent Washington state magistrates' association, after which meeting the association may meet each year during the month of August or September, beginning in 1962. Meetings shall be held in the state of Washington. [1984 c 258 § 51; 1961 c 299 § 124.]

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

3.70.030 Expenses of members. For attendance at the annual meetings of the association, beginning in 1962 and thereafter, a judge of a court of limited jurisdiction shall be entitled to receive reimbursement for judge's reasonable travel expenses as provided in RCW 43.03.050 and 43.03.060 from the county or city responsible for the operating cost of the court over which he or she presides while attending meetings of the association. The per diem and transportation or mileage allowance authorized by this section shall not be paid to any judge for more than five days in any one calendar year. [1984 c 258 § 52; 1961 c 299 § 125.]

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

3.70.040 Powers and duties. The Washington state magistrates' association shall:

(1) Continuously survey and study the operation of the courts served by its membership, the volume and

condition of business of such courts, the methods of procedure therein, the work accomplished, and the character of the results;

(2) Promulgate suggested rules for the administration of the courts of limited jurisdiction not inconsistent with the law or rules of the supreme court relating to such courts;

(3) Report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts. [1984 c 258 § 53; 1980 c 162 § 10; 1961 c 299 § 126.]

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

Severability—1980 c 162: See note following RCW 3.02.010.

Chapter 3.74 MISCELLANEOUS

Sections

3.74.010	District judges to be members of state retirement system.
3.74.020	Full time district judges ineligible for any other office or public employment than judicial.
3.74.030	Mandatory retirement for district judges.
3.74.910	Repealed.
3.74.920	Repealed.

3.74.010 District judges to be members of state retirement system. All district judges under chapters 3.30 through 3.74 RCW shall remain members of the state retirement system. [1984 c 258 § 54; 1961 c 299 § 130.]

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

3.74.020 Full time district judges ineligible for any other office or public employment than judicial. The full time judges of the district court shall be ineligible to any other office, or public employment than a judicial office or employment during the term for which they shall have been elected. [1984 c 258 § 55; 1961 c 299 § 131.]

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

3.74.030 Mandatory retirement for district judges. A district judge shall retire from judicial office at the end of the calendar year in which he or she has attained the age of seventy-five years. This provision shall not affect the term to which any such judge shall have been elected or appointed prior to August 11, 1969. [1984 c 258 § 56; 1969 ex.s. c 6 § 1.]

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

3.74.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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3.74.920 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 4 CIVIL PROCEDURE

Chapters

4.04	Rule of decision—Form of actions.
4.08	Parties to actions.
4.12	Venue—Jurisdiction.
4.16	Limitation of actions.
4.24	Special rights of action and special immunities.
4.28	Commencement of actions.
4.32	Pleadings.
4.36	General rules of pleading.
4.40	Issues.
4.44	Trial.
4.48	Trial before referee.
4.56	Judgments—Generally.
4.64	Entry of judgments.
4.68	Procedure to bind joint debtor.
4.72	Vacation and modification of judgments.
4.80	Exceptions.
4.84	Costs.

Chapter 4.04

RULE OF DECISION—FORM OF ACTIONS

Sections

4.04.020	Repealed.
4.04.030	Repealed.

4.04.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.04.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.08

PARTIES TO ACTIONS

Sections

4.08.020	Repealed.
4.08.090	Repealed.
4.08.130	Repealed.
4.08.190	Repealed.

4.08.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.08.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.08.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.08.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.12
VENUE—JURISDICTION

Sections
4.12.024 Actions involving probate or trust matters.

4.12.024 Actions involving probate or trust matters.
See RCW 11.96.050.

Chapter 4.16
LIMITATION OF ACTIONS

Sections
4.16.010 Repealed.
4.16.020 Actions to be commenced within ten years.
4.16.110 Actions limited to one year. (Effective January 1, 1985.)
4.16.370 Actions against personal representative or trustee for breach of fiduciary duties—Statute of limitations. (Effective January 1, 1985.)

4.16.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.16.020 Actions to be commenced within ten years. The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) Actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States. [1984 c 76 § 1; 1980 c 105 § 1; Code 1881 § 26; 1877 p 7 § 26; 1854 p 363 § 2; RRS § 156.]

Application—1980 c 105: "This act shall apply to all judgments which have not expired before June 12, 1980." [1980 c 105 § 7.] This applies to the amendments to RCW 4.16.020, 4.16.040, 4.56.190, 6.04.010, 6.32.010 and 6.32.015.

Adverse possession

limitation tolled when personal disability: RCW 7.28.090.
recovery of realty, limitation: RCW 7.28.050.

4.16.110 Actions limited to one year. (Effective January 1, 1985.) Within one year an action shall be brought against a sheriff, or other officer for the escape of a prisoner arrested or imprisoned on civil process. [1984 c 149 § 1; Code 1881 § 30; 1877 p 8 § 30; 1869 p 9 § 30; 1854 p 364 § 5; RRS § 161.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Sheriff, civil liability: RCW 36.28.150.

4.16.370 Actions against personal representative or trustee for breach of fiduciary duties—Statute of limitations. (Effective January 1, 1985.) The statute of limitations for actions against a personal representative or trustee for breach of fiduciary duties is as set forth in RCW 11.96.060. [1984 c 149 § 2.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 4.24
SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections
4.24.314 Person transporting hazardous materials—Responsibility for incident clean-up—Liability of person causing hazardous materials incident.
4.24.350 Actions for damages which are false, unfounded, malicious, without probable cause or part of conspiracy—Action, claim, or counterclaim by judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution—Damages and costs—Definitions.

4.24.314 Person transporting hazardous materials—Responsibility for incident clean-up—Liability of person causing hazardous materials incident. (1) Any person transporting hazardous materials shall clean up any hazardous materials incident that occurs during transportation, and shall take such additional action as may be reasonably necessary after consultation with the designated incident command agency in order to achieve compliance with all applicable federal and state laws and regulations.

Any person responsible for causing the hazardous materials incident, other than operating employees of a transportation company, is liable to the state or any political subdivision thereof for extraordinary costs incurred by the state or the political subdivision in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident.

(2) "Extraordinary costs" as used in this section means those reasonable and necessary costs incurred by a governmental entity in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services, and public works. These shall include, but not be limited to, overtime for public employees, unusual fuel consumption requirements, any loss or damage to publicly owned equipment, and the purchase or lease of any special equipment or services required to protect the public during the hazardous materials incident. [1984 c 165 § 3.]

4.24.350 Actions for damages which are false, unfounded, malicious, without probable cause or part of conspiracy—Action, claim, or counterclaim by judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution—Damages and costs—Definitions. (1) In any action for damages, whether based on tort or contract or otherwise, a claim or counterclaim for damages may be litigated in the principal

action for malicious prosecution on the ground that the action was instituted with knowledge that the same was false, and unfounded, malicious and without probable cause in the filing of such action, or that the same was filed as a part of a conspiracy to misuse judicial process by filing an action known to be false and unfounded.

(2) In any action, claim, or counterclaim brought by a judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution arising out of the performance or purported performance of the public duty of such officer, an arrest or seizure of property need not be an element of the claim, nor do special damages need to be proved. A judicial officer, prosecuting authority, or law enforcement officer prevailing in such an action may be allowed an amount up to one thousand dollars as liquidated damages, together with a reasonable attorneys' fee, and other costs of suit. A government entity which has provided legal services to the prevailing judicial officer, prosecuting authority, or law enforcement officer has reimbursement rights to any award for reasonable attorneys' fees and other costs, but shall have no such rights to any liquidated damages allowed.

(3) No action may be brought against an attorney under this section solely because of that attorney's representation of a party in a lawsuit.

(4) As used in this section:

(a) "Judicial officer" means a justice, judge, magistrate, or other judicial officer of the state or a city, town, or county.

(b) "Prosecuting authority" means any officer or employee of the state or a city, town, or county who is authorized by law to initiate a criminal or civil proceeding on behalf of the public.

(c) "Law enforcement officer" means a member of the state patrol, a sheriff or deputy sheriff, or a member of the police force of a city, town, university, or state college, or a "wildlife agent" or "ex officio wildlife agent" as defined in RCW 77.08.010. [1984 c 133 § 2; 1977 ex.s. c 158 § 1.]

Legislative findings—1984 c 133: "The legislature finds that a growing number of unfounded lawsuits, claims, and liens are filed against law enforcement officers, prosecuting authorities, and judges, and against their property, having the purpose and effect of deterring those officers in the exercise of their discretion and inhibiting the performance of their public duties.

The legislature also finds that the cost of defending against such unfounded suits, claims and liens is severely burdensome to such officers, and also to the state and the various cities and counties of the state. The purpose of section 2 of this 1984 act is to provide a remedy to those public officers and to the public." [1984 c 133 § 1.]

Construction—1984 c 133: "The provisions of section 2 of this 1984 act are remedial and shall be liberally construed." [1984 c 133 § 3.]

Severability—1984 c 133: "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 133 § 4.]

Chapter 4.28

COMMENCEMENT OF ACTIONS

Sections	
4.28.010	Repealed.
4.28.020	Jurisdiction acquired, when.
4.28.030	through 4.28.070 Repealed.
4.28.130	Repealed.
4.28.190	Repealed.
4.28.220	through 4.28.280 Repealed.
4.28.300	Repealed.
4.28.310	Repealed.

4.28.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.020 Jurisdiction acquired, when. From the time of the commencement of the action by service of summons, or by the filing of a complaint, or as otherwise provided, the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings. [1984 c 76 § 2; 1895 c 86 § 4; 1893 c 127 § 15; RRS § 238.]

4.28.030 through 4.28.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.220 through 4.28.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.300 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.28.310 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.32

PLEADINGS

Sections	
4.32.010	through 4.32.030 Repealed.
4.32.050	Repealed.
4.32.060	Repealed.
4.32.080	through 4.32.110 Repealed.
4.32.160	Repealed.
4.32.180	through 4.32.220 Repealed.
4.32.240	Repealed.
4.32.260	Repealed.

4.32.010 through 4.32.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.080 through 4.32.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.180 through 4.32.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.240 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.32.260 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.36

GENERAL RULES OF PLEADING

Sections	
4.36.010	through 4.36.060 Repealed.
4.36.090	through 4.36.110 Repealed.
4.36.150	Repealed.
4.36.160	Repealed.
4.36.190	Repealed.
4.36.200	Failure of proof.
4.36.220	Repealed.
4.36.230	Repealed.
4.36.250	Repealed.

4.36.010 through 4.36.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.090 through 4.36.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.200 Failure of proof. When, however, the allegation of the cause of action or defense, to which the proof is directed, is not proved, not in some particular or particulars only, but in its entire scope and meaning, it shall not be deemed a case of variance within RCW 4.36.180, but a failure of proof. [1984 c 76 § 3; Code 1881 § 107; 1877 p 23 § 107; 1854 p 144 § 68; RRS § 301.]

4.36.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.230 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.36.250 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.40

ISSUES

Sections	
4.40.020	Repealed.
4.40.030	Repealed.

4.40.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.40.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.44

TRIAL

Sections	
4.44.010	Repealed.
4.44.040	Repealed.
4.44.100	Repealed.
4.44.320	Repealed.
4.44.410	General or special verdicts.

4.44.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.44.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.44.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.44.320 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.44.410 General or special verdicts. The verdict of a jury is either general or special. [1984 c 76 § 4; Code 1881 § 240; 1877 p 49 § 244; 1869 p 59 § 244; 1854 p 167 § 198; RRS § 362.]

Rules of court: See CR 49.

Chapter 4.48

TRIAL BEFORE REFEREE

Sections	
4.48.010	Reference by consent—Right to jury trial—Referee may not preside—Parties' written consent constitutes waiver of right. (Effective January 1, 1985.)
4.48.020	Reference without consent. (Effective January 1, 1985.)
4.48.030	To whom reference may be ordered. (Effective January 1, 1985.)
4.48.040	Qualifications of referees. (Effective January 1, 1985.)
4.48.050	Challenges to referees. (Effective January 1, 1985.)
4.48.060	Trial procedure—Powers of referee—Referee to provide clerical personnel. (Effective January 1, 1985.)

- 4.48.070 Referee's report—Contents—Evidence, filing of, frivolous. (Effective January 1, 1985.)
- 4.48.080 Proceedings on filing of report. (Effective January 1, 1985.)
- 4.48.090 Judgment on referee's report. (Effective January 1, 1985.)
- 4.48.100 Compensation of referee—Trial expense—Obligation of parties, when. (Effective January 1, 1985.)
- 4.48.110 Referee's proposed report—Copies—Objections, etc.—Request for hearing—Final report—Additional items to be filed—Exception—Copies. (Effective January 1, 1985.)
- 4.48.120 Termination of referral—Judgment—Review of referee's decision. (Effective January 1, 1985.)
- 4.48.130 Notice of trial before referee. (Effective January 1, 1985.)

4.48.010 Reference by consent—Right to jury trial—Referee may not preside—Parties' written consent constitutes waiver of right. (Effective January 1, 1985.) The court shall order all or any of the issues in a civil action, whether of fact or law, or both, referred to a referee upon the written consent of the parties which is filed with the clerk. Any party shall have the right in an action at law, upon an issue of fact, to demand a trial by jury. No referee appointed under this chapter may preside over a jury trial. The written consent of the parties constitutes a waiver of the right of trial by jury by any party having the right. [1984 c 258 § 512; Code 1881 § 248; 1854 p 168 § 206; RRS § 369. Formerly RCW 4.44.100, part, and 4.48.010.]

Rules of court: Cf. CR 38(a).

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

4.48.020 Reference without consent. (Effective January 1, 1985.) Where the parties do not consent, the court may upon the application of either party, direct a reference in all cases formerly cognizable in chancery in which reference might be made:

(1) When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

(2) When the taking of an account shall be necessary for the information of the court, before judgment upon an issue of law, or for carrying a judgment or order into effect; or,

(3) When a question of fact other than upon the pleadings shall arise, upon motion or otherwise, in any stage of the action; or,

(4) When it is necessary for the information of the court in a special proceeding. [1984 c 258 § 513; Code 1881 § 249; 1877 p 51 § 253; 1869 p 61 § 253; 1854 p 168 § 207; RRS § 370.]

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

4.48.030 To whom reference may be ordered. (Effective January 1, 1985.) A reference may be ordered to any person or persons not exceeding three, agreed upon by the parties. If the reference is not agreed to by the parties, the court may appoint one or more persons, not

exceeding three. [1984 c 258 § 514; Code 1881 § 250; 1877 p 51 § 254; 1869 p 61 § 254; 1854 p 168 § 208; RRS § 371.]

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

4.48.040 Qualifications of referees. (Effective January 1, 1985.) A person appointed by the court as a referee or who serves as a referee with the consent of the parties shall be:

(1) Qualified as a juror as provided by statute.

(2) Competent as juror between the parties.

(3) A duly admitted and practicing attorney. [1984 c 258 § 515; Code 1881 § 251; 1877 p 51 § 255; 1859 p 61 § 255; 1854 p 169 § 209; RRS § 372.]

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

4.48.050 Challenges to referees. (Effective January 1, 1985.) If a referee is appointed by the court, each party shall have the same right to challenge the appointment. Challenges shall be made and determined in the same manner and with like effect as in the formation of juries, except that neither party shall be entitled to a peremptory challenge. [1984 c 258 § 516; Code 1881 § 252; 1877 p 52 § 256; 1869 p 61 § 256; RRS § 373.]

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

4.48.060 Trial procedure—Powers of referee—Referee to provide clerical personnel. (Effective January 1, 1985.) (1) Subject to the limitations and directions prescribed in the order of reference, the trial conducted by a referee shall be conducted in the same manner as a trial by the court. Unless waived in whole or in part, the referee shall apply the rules of pleading, practice, procedure, and evidence used in the superior courts of this state. The referee shall have the same power to grant adjournments, administer oaths, preserve order, punish all violations thereof upon such trial, compel the attendance of witnesses, and to punish them for nonattendance or refusal to be sworn or testify, as is possessed by the court.

(2) A referee appointed under RCW 4.48.010 shall provide clerical personnel necessary for the conduct of the proceeding, including a court reporter. [1984 c 258 § 517; Code 1881 § 253; 1877 p 52 § 257; 1869 p 62 § 257; 1854 p 169 § 210; RRS § 374.]

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

4.48.070 Referee's report—Contents—Evidence, filing of, frivolous. (Effective January 1, 1985.) The report of a referee appointed by the court under RCW 4.48.020 shall state the facts found, and when the order of reference includes an issue of law, it shall state the conclusions of law separately from the facts. The referee shall file with the report the evidence received upon the trial. If evidence offered by either party shall not be admitted on the trial and the party offering the same excepts to the decision rejecting such evidence at the time,

the exceptions shall be noted by the referees and they shall take and receive such testimony and file it with the report. Whatever judgment the court may give upon the report, it shall, when it appears that such evidence was frivolous and inadmissible, require the party at whose instance it was taken and reported, to pay all costs and disbursements thereby incurred. [1984 c 258 § 518; Code 1881 § 254; 1877 p 52 § 258; 1869 p 62 § 258; 1854 p 169 § 210; RRS § 375.]

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

4.48.080 Proceedings on filing of report. (Effective January 1, 1985.) The report of a referee appointed by the court under RCW 4.48.020 shall be filed with the clerk within twenty days after the trial concludes. Either party may, within such time as may be prescribed by the rules of court, or by special order, move to set the same aside, or for judgment thereon, or such order or proceeding as the nature of the case may require. [1984 c 258 § 519; 1957 c 9 § 3; Code 1881 § 255; 1877 p 52 § 259; 1869 p 62 § 259; RRS § 376.]

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

4.48.090 Judgment on referee's report. (Effective January 1, 1985.) The court may affirm or set aside the report of a referee appointed under RCW 4.48.020 either in whole or in part. If it affirms the report it shall give judgment accordingly. If the report be set aside, either in whole or in part, the court may make another order of reference as to all or so much of the report as is set aside, to the original referees or others, or it may find the facts and determine the law itself and give judgment accordingly. Upon a motion to set aside a report, the conclusions thereof shall be deemed and considered as the verdict of the jury. [1984 c 258 § 520; Code 1881 § 256; 1877 p 52 § 260; 1869 p 62 § 260; RRS § 377.]

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

4.48.100 Compensation of referee—Trial expense—Obligation of parties, when. (Effective January 1, 1985.) (1) The compensation of a referee appointed under RCW 4.48.020 shall be the same as that established for a superior court judge pro tempore under RCW 2.08.180.

(2) If a referee is appointed pursuant to RCW 4.48.010, the referee's compensation shall be at the rate prescribed by subsection (1) of this section, unless otherwise agreed to by the parties.

(3) Payment of the compensation of a referee appointed under RCW 4.48.010 and the expense of the trial before the referee shall be the obligation of the parties. The obligation shall be borne equally unless the parties agree to a different allocation. [1984 c 258 § 524; Code 1881 § 514; 1877 p 109 § 518; 1854 p 202 § 376; RRS § 483.]

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

Supplemental proceedings, fees of referees: RCW 6.32.280.

4.48.110 Referee's proposed report—Copies—Objections, etc.—Request for hearing—Final report—Additional items to be filed—Exception—Copies. (Effective January 1, 1985.) (1) Within twenty days after the conclusion of a trial before a referee appointed under RCW 4.48.010, unless a later time is agreed to by the parties, the referee shall mail to each party a copy of the referee's proposed written report. The proposed report shall contain the findings of fact and conclusions of law by the referee and the judgment of the referee.

(2) Within ten days after receipt of the copy of the proposed report, any party may serve written objections and suggested modifications or corrections to the proposed report on the referee and the other parties. The referee shall without delay consider the objections and suggestions and prepare a final written report. If requested by any party, the referee shall conduct a hearing on the proposed report and any suggested corrections or modifications before preparing the final written report.

(3) Upon completion of the final written report, the referee shall file with the clerk of the superior court:

(a) Copies of all original papers in the action filed with the referee;

(b) Exhibits offered and received or rejected during the trial;

(c) The transcript of the proceedings in the trial; and

(d) The final written report containing the findings of fact and conclusions of law by the referee and the judgment of the referee.

(4) The presiding judge of the superior court may allow the referee to file the final written report under subsection (3) of this section without any of the items listed in subsection (3) (a) through (c) of this section. However, the presiding judge shall require the referee to file those items if a timely notice of appeal of the judgment is filed.

(5) When the referee files the written report under subsection (3) of this section, the referee shall also mail to each party a copy of the report. [1984 c 258 § 521.]

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

4.48.120 Termination of referral—Judgment—Review of referee's decision. (Effective January 1, 1985.) (1) Upon receipt by the clerk of the court of the final written report filed under RCW 4.48.110, the referral of the action shall terminate and the presiding judge of the superior court shall order the judgment contained in the report entered as the judgment of the court in the action. Subsequent motions and other post trial proceedings in the action may be conducted and disposed of by the referee upon order of the presiding judge, in the discretion of the presiding judge, or may otherwise be assigned by the presiding judge.

(2) The decision of a referee entered as provided in this section may be reviewed in the same manner as if the decision was made by the court. [1984 c 258 § 522.]

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

4.48.130 Notice of trial before referee. (Effective January 1, 1985.) (1) If an action is to be tried by a referee appointed under RCW 4.48.010, at least five days before the date set for the trial the referee shall advise the clerk of the court of the time and place set for the trial. The clerk shall post in a conspicuous place in the courthouse a notice that includes the names of the parties to the action, the time and place set for the trial, the name of the referee, and a statement that the proceeding is being held before a referee agreed to by the parties under chapter 4.48 RCW.

(2) A person interested in attending a trial before a referee appointed under RCW 4.48.010 [4.48.010] is entitled to do so as in a trial of a civil action in superior court. Upon request by any person, the referee shall give the person notice of the time and place set for the trial. [1984 c 258 § 523.]

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

Chapter 4.56

JUDGMENTS—GENERALLY

Sections

4.56.010	Repealed.
4.56.030	Repealed.
4.56.040	Repealed.
4.56.160	through 4.56.180 Repealed.

4.56.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.56.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.56.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

4.56.160 through 4.56.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 4.64

ENTRY OF JUDGMENTS

Sections

4.64.010	Time of entering judgment—Motions—Filing—Recording.
4.64.030	Entry of judgment in execution docket—Summary of judgment for payment of money.
4.64.100	Abstract of verdict—Cessation of lien, certificate.

4.64.010 Time of entering judgment—Motions—Filing—Recording.

Reviser's note: RCW 4.64.010 was both amended and repealed during the 1984 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

[1984 RCW Supp—page 30]

4.64.030 Entry of judgment in execution docket—Summary of judgment for payment of money. All judgments shall be entered by the clerk, subject to the direction of the court, in the execution docket, and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action. At the end of each judgment which provides for the payment of money, the following shall be succinctly summarized: The judgment creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment. If the attorney fees and costs are not included in the judgment, they shall be summarized in the cost bill when filed. This information is included in the judgment to assist the county clerk in his or her record-keeping function. [1984 c 128 § 6; 1983 c 28 § 2; Code 1881 § 305; 1877 p 62 § 309; 1869 p 75 § 307; RRS § 435.]

Rules of court: Cf. CR 58(a), CR 58(b), CR 78 (e).

4.64.100 Abstract of verdict—Cessation of lien, certificate. The clerk shall, on request and at the expense of the party in whose favor the verdict is rendered, or his attorney, prepare an abstract of such verdict in substantially the same form as an abstract of a judgment and transmit such abstract to the clerk of any court in any county in the state as directed, and shall make a note on the execution docket of the name of the county to which each of such abstracts is sent. The clerk receiving such abstract shall, on payment of a fee of fifty cents therefor, enter and index the same in the execution docket in the same manner as an abstract of judgment. On the entry thereof the same shall have the same effect in such county as in the county where rendered.

Whenever the verdict, or any judgment rendered thereon, shall cease to be a lien in the county where rendered, the clerk of the court shall on request of anyone, and the payment of the cost and expense thereof, certify that the lien thereof has ceased, and transmit such certificate to the clerk of any court to which an abstract was forwarded, and such clerk receiving the certificate, on payment of a fee of fifty cents therefor, shall enter the same in the execution docket, and then and thereupon the lien of such verdict or judgment shall cease. Nothing in this section or RCW 4.64.020 shall be construed as authorizing the issuance of an execution in any other county than that in which the judgment is rendered. [1984 c 76 § 5; 1921 c 65 § 3; RRS § 431–2.]

Fees of

superior court clerks: RCW 36.18.020.

supreme and appellate court clerks: RCW 2.32.070.

Chapter 4.68

PROCEDURE TO BIND JOINT DEBTOR

Sections

4.68.010	Summons after judgment.
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4.68.010 Summons after judgment. When a judgment is recorded against one or more of several persons jointly indebted upon an obligation by proceeding as provided by the court by rule, such defendants who were not originally served with the summons, and did not appear to the action, may be summoned to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons. [1984 c 76 § 6; Code 1881 § 314; 1877 p 64 § 318; RRS § 436.]

Chapter 4.72

VACATION AND MODIFICATION OF JUDGMENTS

Sections
4.72.040 Repealed.

4.72.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 4.80
EXCEPTIONS**

Sections
4.80.050 Repealed.

4.80.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 4.84
COSTS**

Sections
4.84.010 Compensation of attorneys—Costs defined.
4.84.250 Attorneys' fees as costs in damage actions of seven thousand five hundred dollars or less—Allowed to prevailing party—Amount of damages after July 1, 1985.
4.84.310 Repealed.

4.84.010 Compensation of attorneys—Costs defined. The measure and mode of compensation of attorneys and counselors, shall be left to the agreement, expressed or implied, of the parties, but there shall be allowed to the prevailing party upon the judgment certain sums by way of indemnity for the prevailing party's expenses in the action, which allowances are termed costs, including, in addition to costs otherwise authorized by law, the following expenses:

- (1) Filing fees;
- (2) Fees for the service of process;
- (3) Fees for service by publication;
- (4) Notary fees, but only to the extent the fees are for services that are expressly required by law and only to the extent they represent actual costs incurred by the prevailing party;
- (5) Reasonable expenses, exclusive of attorneys' fees, incurred in obtaining reports and records, which are admitted into evidence at trial or in mandatory arbitration

in superior or district court, including but not limited to medical records, tax records, personnel records, insurance reports, employment and wage records, police reports, school records, bank records, and legal files;

(6) Statutory attorney and witness fees; and

(7) To the extent that the court or arbitrator finds that it was necessary to achieve the successful result, the reasonable expense of the transcription of depositions used at trial or at the mandatory arbitration hearing: *Provided*, That the expenses of depositions shall be allowed on a pro rata basis for those portions of the depositions introduced into evidence or used for purposes of impeachment. [1984 c 258 § 92; 1983 1st ex.s. c 45 § 7; Code 1881 § 505; 1877 p 108 § 509; 1869 p 123 § 459; 1854 p 201 § 367; RRS § 474.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010. *Attorney fee in appeals from board of industrial insurance appeals: RCW 51.52.130, 51.52.132.*

4.84.250 Attorneys' fees as costs in damage actions of seven thousand five hundred dollars or less—Allowed to prevailing party—Amount of damages after July 1, 1985. Notwithstanding any other provisions of chapter 4.84 RCW and RCW 12.20.060, in any action for damages where the amount pleaded by the prevailing party as hereinafter defined, exclusive of costs, is seven thousand five hundred dollars or less, there shall be taxed and allowed to the prevailing party as a part of the costs of the action a reasonable amount to be fixed by the court as attorneys' fees. After July 1, 1985, the maximum amount of the pleading under this section shall be ten thousand dollars. [1984 c 258 § 88; 1980 c 94 § 1; 1973 c 84 § 1.]

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

Effective date—1980 c 94: "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 May 1, 1980." [1980 c 94 § 6.]

4.84.310 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 6

ENFORCEMENT OF JUDGMENTS

Chapters

- 6.04 Executions.**
- 6.12 Homesteads.**
- 6.24 Sales under execution and redemption.**

**Chapter 6.04
EXECUTIONS**

Sections
6.04.100 Execution and service of writ—Levy.

6.04.100 Execution and service of writ—Levy.

When the writ of execution is against the property of the judgment debtor, the sheriff shall set the date of sale and serve on the debtor, in the same manner as service of a summons in a civil action, a copy of the writ, together with copies of RCW 6.12.010, 6.12.045, 6.12.050, 6.16.020, and 6.16.090, each as now existing or hereafter amended, shall at the time of service notify the judgment debtor of the date of sale, and shall execute the writ as follows:

(1) If property has been attached, he shall indorse on the execution, and pay to the clerk forthwith the amount of the proceeds of sales of perishable property or debts due the defendant received by him, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in his custody, he shall sell the same, or sufficient thereof to satisfy the judgment.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, he shall levy on the property of the judgment debtor, sufficient to satisfy the judgment.

(4) Property shall be levied on in like manner and with like effect as similar property is attached.

(5) Until a levy, personal property shall not be affected by the execution. When property has been sold or debts received by the sheriff on execution, he shall pay the proceeds thereof, or sufficient to satisfy the judgment, as commanded in the writ.

(6) When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor without delay. If after satisfying the judgment any property, or the proceeds thereof, remain in the custody of the sheriff, he shall deliver the same to the judgment debtor. [1984 c 276 § 7; 1983 c 3 § 6; 1981 c 193 § 1; Code 1881 § 355; 1877 p 76 § 358; 1869 p 91 § 351; RRS § 578.]

Application—1984 c 276: See note following RCW 6.24.010.

Chapter 6.12 HOMESTEADS

Sections

6.12.100	Homestead subject to execution, when.
6.12.105	Homestead declaration before judgment—Lien on excess value of property.
6.12.180	Hearing—Appointment of appraiser.
6.12.270	Compensation of appraiser.

6.12.100 Homestead subject to execution, when. The homestead is subject to execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, materialmen's or vendor's liens upon the premises;

(2) On debts secured by purchase money security agreements describing as collateral a mobile home located on the premises or mortgages on the premises, executed and acknowledged by the husband and wife or by any unmarried claimant;

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(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, including as a joint case under 11 U.S.C. Sec. 302, and (b) the other spouse exempts property from property of the estate under the federal exemption provisions of 11 U.S.C. Sec. 522(b)(1);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance. [1984 c 260 § 16; 1982 c 10 § 1. Prior: 1981 c 304 § 17; 1981 c 149 § 1; 1909 c 44 § 1; 1895 c 64 § 5; RRS § 533.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1982 c 10: "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 10 § 19.]

Severability—1981 c 304: See note following RCW 26.16.030.

6.12.105 Homestead declaration before judgment—Lien on excess value of property. When a homestead declaration occurs before a judgment, the judgment creditor has a lien on the value of the property in excess of the homestead exemption. This lien commences when the judgment creditor records the judgment with the auditor of the county where the property is located. [1984 c 260 § 30.]

Severability—1984 c 260: See RCW 26.18.900.

6.12.180 Hearing—Appointment of appraiser. At the hearing the judge may, upon the proof of the service of a copy of the petition and notice and of the facts stated in the petition, appoint a disinterested qualified person of the county to appraise the value of the homestead. [1984 c 118 § 1; 1895 c 64 § 13; RRS § 541.]

Compensation of appraiser: RCW 6.12.270.

6.12.270 Compensation of appraiser. The court shall determine a reasonable compensation for the appraiser. [1984 c 118 § 2; 1895 c 64 § 22; RRS § 550.]

Chapter 6.24

SALES UNDER EXECUTION AND REDEMPTION

Sections

6.24.010	Notice of sale—Personal property—Real property—Form.
6.24.015	Notice of sale—Form.
6.24.100	Confirmation.
6.24.140	Time for redemption—Amount to be paid.
6.24.145	Notice to be given during redemption period—Form—Effect of noncompliance.
6.24.180	Mode of redemption.

6.24.010 Notice of sale—Personal property—Real property—Form. Before the sale of property under execution, order of sale or decree, notice thereof shall be given as follows:

(1) In case of personal property, the sheriff shall post typed or printed notice of the time and place of sale in three public places in the county where the sale is to

take place, for a period of not less than thirty days prior to the day of sale. Not less than thirty days prior to the day of sale, the judgment creditor shall cause a copy of the notice of sale to be transmitted by regular and certified mail, return receipt requested, to the judgment debtor at the debtor's last known address, and by mail to the attorney of record for the judgment debtor.

(2) In case of real property, the sheriff shall post a notice as provided in RCW 6.24.015, particularly describing the property for a period of not less than four weeks prior to the day of sale in two public places in the county, one of which shall be at the court house door, where the property is to be sold, and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement. The sheriff shall also publish a notice thereof once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR ----- COUNTY

Plaintiff, } CAUSE NO.
vs. } SHERIFF'S PUBLIC NOTICE OF SALE OF REAL PROPERTY
Defendant. }

TO: [Judgment Debtor]
The Superior Court of ----- County has directed the undersigned Sheriff of ----- County to sell the property described below to satisfy a judgment in the above-entitled action. If developed the property address is: -----

The sale of the above described property is to take place:
Time: -----
Date: -----
Place: -----

The judgment debtor can avoid the sale by paying the judgment amount of \$ -----, together with interest, costs, and fees before the sale date. For the exact amount, contact the sheriff at the address stated below:
----- SHERIFF-DIRECTOR, ----- COUNTY, WASHINGTON.

By -----, Deputy
Address -----
----- (City)
Washington 9-----
Phone (...) -----

Provided, however, That if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit or proceeding shall have the exclusive right to designate in which of such qualified newspapers such notice shall be published: Provided, further, That if there is no legal newspaper published in the county, then such notice shall be published in a legal

newspaper published in a contiguous county. Not less than thirty days prior to the date of sale, the judgment creditor shall cause a copy of the notice as provided in RCW 6.24.015 to be (a) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (b) transmitted by both regular and certified mail, return receipt requested, to the judgment debtor or debtors and to each of them separately if there is more than one judgment debtor at the judgment debtor's last known address, and the judgment creditor shall mail a copy of the notice of sale to the attorney of record for the judgment debtor.

(3) The judgment creditor shall file an affidavit with the court that the judgment creditor has complied with the notice requirements of this section. [1984 c 276 § 1; 1981 c 329 § 1; 1935 c 35 § 1; RRS § 582. Prior: 1927 c 69 § 1; 1903 c 179 § 1; 1899 c 53 § 3; 1897 c 91 § 1.]

Application—1984 c 276: "The 1984 amendments to RCW 6.04-.100, 6.24.010, 6.24.015, 6.24.100, 6.24.140, 6.24.145, and 6.24.180 shall apply to all executions under chapter 6.24 RCW commenced after the effective date of this act [June 7, 1984]." [1984 c 276 § 8.]

Severability—1981 c 329: "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 329 § 24.]

Legal publications: Chapter 65.16 RCW.

6.24.015 Notice of sale—Form. The notice of sale shall be printed or typed and shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR ----- COUNTY

Plaintiff, } CAUSE NO.
vs. } SHERIFF'S NOTICE TO JUDGMENT DEBTOR OF SALE OF REAL PROPERTY
Defendant. }

TO: [Judgment Debtor]
The Superior Court of ----- County has directed the undersigned Sheriff of ----- County to sell the property described below to satisfy a judgment in the above-entitled action. The property to be sold is described on the reverse side of this notice. If developed the property address is: -----

The sale of the above described property is to take place:
Time: -----
Date: -----
Place: -----

The judgment debtor can avoid the sale by paying the judgment amount of \$ -----, together with interest, costs, and fees before the sale date. For the exact amount, contact the sheriff at the address stated below:

This property is subject to: (check one)
[] 1. No redemption rights after sale.
[] 2. A redemption period of eight months which will expire at 4:30 p.m. on the ----- day of -----, 19---

☐ 3. A redemption period of one year which will expire at 4:30 p.m. on the ----- day of -----, 19 ---

The judgment debtor or debtors or any of them may redeem the above described property at any time up to the end of the redemption period by paying the amount bid at the sheriff's sale plus additional costs, taxes, assessments, and fees. If you are interested in redeeming the property contact the undersigned sheriff at the address stated below to determine the exact amount necessary to redeem.

IMPORTANT NOTICE: IF THE JUDGMENT DEBTOR OR DEBTORS DO NOT REDEEM THE PROPERTY BY 4:30 p.m. ON THE --- DAY OF -----, 19---, THE END OF THE REDEMPTION PERIOD, THE PURCHASER AT THE SHERIFF'S SALE WILL BECOME THE OWNER AND MAY EVICT THE OCCUPANT FROM THE PROPERTY. IF THE PROPERTY TO BE SOLD IS A PERMANENT RESIDENCE AND IS OCCUPIED BY THE JUDGMENT DEBTOR OR DEBTORS AT THE TIME OF SALE, HE, SHE, THEY, OR ANY OF THEM HAVE THE RIGHT TO RETAIN POSSESSION DURING THE REDEMPTION PERIOD, IF ANY, WITHOUT PAYMENT OF ANY RENT OR OCCUPANCY FEE.

----- SHERIFF-DIRECTOR, ----- COUNTY, WASHINGTON.

By -----, Deputy
Address -----
----- (City)
Washington 9-----
Phone (...) -----

If the sale is not pursuant to a judgment of foreclosure of a mortgage, the above notice should also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately. [1984 c 276 § 2; 1981 c 329 § 2.]

Application—1984 c 276: See note following RCW 6.24.010.
Severability—1981 c 329: See note following RCW 6.24.010.

6.24.100 Confirmation. Upon the return of any sale of real estate as aforesaid, the clerk shall enter the cause, on which the execution or order of sale issued, by its title, on the motion docket, and mark opposite the same: "Sale of land for confirmation"; notice of the filing of the return of sale shall be mailed by the clerk to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them and proof of such mailing shall be filed in the action; and the following proceedings shall be had:

(1) The judgment creditor or successful purchaser at the sheriff's sale at any time after twenty days have elapsed from the mailing of the notice of the filing of

such return shall be entitled, on motion with notice given to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them, to have an order confirming the sale, unless the judgment debtor, or in case of his death, his representative, shall file with the clerk within twenty days after the mailing of the notice of the filing of such return, his objections thereto.

(2) If such objections be filed the court shall, notwithstanding, allow the order confirming the sale, unless on the hearing of the motion, it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court shall disallow the motion and direct that the property be resold, in whole or in part, as the case may be as upon an execution received of that date.

(3) Upon the return of the execution, the sheriff shall pay the proceeds of sale to the clerk, who shall then apply the same, or so much thereof as may be necessary, in satisfaction of the judgment including interest as provided in the judgment. If an order of resale be afterwards made, and the property sell for a greater amount to any person other than the former purchaser, the clerk shall first repay to such purchaser the amount of his bid out of the proceeds of the latter sale together with interest as is provided in the judgment.

(4) Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale as to all persons in any other action, suit or proceeding whatever.

(5) If, after the satisfaction of the judgment, there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor, or his representative, as the case may be, at any time before the order is made upon the motion to confirm the sale: *Provided*, Such party file with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale; but if the sale be confirmed, such proceeds shall be paid to said party of course; otherwise they shall remain in the custody of the clerk until the sale of the property has been disposed of. [1984 c 276 § 3; 1981 c 329 § 3; 1899 c 53 § 6; RRS § 591. Prior: 1897 c 50 § 14; Code 1881 § 367; 1877 p 79 § 370; 1869 p 95 § 363; 1854 p 182 § 266.]

Application—1984 c 276: See note following RCW 6.24.010.
Severability—1981 c 329: See note following RCW 6.24.010.

6.24.140 Time for redemption—Amount to be paid. Unless redemption rights have been precluded pursuant to RCW 61.12.093 et seq., the judgment debtor or his successor in interest, or any redemptioner, may redeem the property at any time within one year after the sale, on paying the amount of the bid, with interest thereon at the rate provided in the judgment to the time of redemption, together with the amount of any assessment or taxes which the purchaser or his successor in interest may have paid thereon after purchase, and like

interest on such amount together with any sum paid on a prior lien or obligation secured by an interest in the property to the extent the payment was necessary for the protection of the interest of the judgment debtor, the judgment debtor's successor in interest, or a redemptioner which the purchaser or the purchaser's successor in interest may have paid thereon with interest upon every payment made by the purchaser or the purchaser's successor in interest at the rate provided in the judgment from the date of payment thereof to the time of redemption; and if the purchaser be also a creditor having a lien, by judgment, decree or mortgage, prior to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such lien with interest: *Provided, however,* That whenever there is an execution sale of property pursuant to judgment and decree of foreclosure of any mortgage executed after June 30, 1961, which mortgage declares in its terms that the mortgaged property is not used principally for agricultural or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, the period of redemption shall be eight months after the said sale. [1984 c 276 § 4; 1965 c 80 § 4; 1961 c 196 § 1; 1899 c 53 § 8; RRS § 595.]

Application—1984 c 276: See note following RCW 6.24.010.

6.24.145 Notice to be given during redemption period—Form—Effect of noncompliance. If the property is subject to a homestead as provided in *RCW 6.17.045 or 6.17.050, the purchaser or the purchaser's assignee, or the redemptioner or the redemptioner's assignee if the property has been redeemed shall send a notice at least forty but not more than sixty days before the expiration of the redemption period by certified mail, return receipt requested, and by first class mail to the judgment debtor or debtors and to each of them separately, if there is more than one judgment debtor, at their last known address and to "occupant" at the property address. The notice shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR _____ COUNTY

Plaintiff, } CAUSE NO.
vs. } NOTICE OF EXPIRATION
Defendant. } OF REDEMPTION PERIOD

TO: [Judgment Debtor]

THIS IS AN IMPORTANT NOTICE AFFECTING YOUR RIGHT TO RETAIN YOUR PROPERTY.

NOTICE IS HEREBY GIVEN that the period for redemption of the following described real property ("the property") is expiring. The property is situated in the County of _____, State of Washington, to wit:

_____ [legal description] _____ and commonly known as _____, which was sold by _____, _____ County Sheriff, in _____,

_____ County, Washington on the _____ day of _____, 19____, under and by virtue of a writ of execution and order of sale issued by the court in the above-entitled action.

THE REDEMPTION PERIOD FOR THE PROPERTY IS _____ MONTHS. THE REDEMPTION PERIOD COMMENCED ON _____, 19____, AND WILL EXPIRE AT 4:30 p.m. ON _____, 19____.

If you intend to redeem the property described above you must give written notice of your intention to the _____ County Sheriff on or before _____, 19____.

Following is an itemized account of the amount required to redeem the property to date:

Item	Amount
Purchase price paid at sale	\$
Interest from date of sale to date of this notice at ___ percent per annum	\$
Real estate taxes	\$
Assessments	\$
Liens or other costs paid during redemption period	\$
TOTAL REQUIRED TO REDEEM AS OF THE DATE OF THIS NOTICE	\$

You may redeem the property by 4:30 p.m. on or before the ___ day of _____, 19____, by paying the amount set forth above and such other amounts as may be required by law. Payment must be in the full amount and in cash, certified check, or cashier's check. Because such other amounts as may be required by law to redeem may include presently unknown expenditures required to operate, preserve, protect, or insure the property, or the amount to comply with state or local laws, or the amounts of prior liens, with interest, held by the purchaser or a redemptioner, it will be necessary for you to contact the _____ County Sheriff at the address stated below prior to the time you tender the redemption amount so that you may be informed exactly how much you will have to pay to redeem the property.

_____ SHERIFF-DIRECTOR, _____ COUNTY, WASHINGTON.

By _____, Deputy
Address _____
_____(City)
Washington 9____
Phone (...) _____

IF YOU FAIL TO REDEEM THE PROPERTY BY 4:30 p.m. ON OR BEFORE THE _____ DAY OF _____, 19____, THE DATE UPON WHICH THE REDEMPTION PERIOD WILL EXPIRE, THE PURCHASER OR THE PURCHASER'S ASSIGNEE WILL BE ENTITLED TO POSSESSION OF THE PROPERTY AND MAY BRING AN ACTION TO EVICT YOU FROM POSSESSION OF THE PROPERTY.

DATED THIS ___ DAY OF _____, 19____
[Purchaser]
By

[Purchaser's attorney]
Attorneys for

STATE OF WASHINGTON }
COUNTY OF } ss.

The undersigned being first duly sworn on oath states: That on this day affiant deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the judgment debtor at the address stated on the face of this document and to "occupant" at the property address, both by certified mail, return receipt requested, and by first class mail, all of the mailings containing a copy of the document to which this affidavit is attached.

SUBSCRIBED AND SWORN TO BEFORE
ME THIS ... DAY OF ..., 19...
NOTARY PUBLIC in and for the
State of Washington, residing at:

In the event that the redemption period is extended no further notice need be sent.

The party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff. Failure to comply with this section extends the redemption period for six months. [1984 c 276 § 5; 1981 c 329 § 6.]

*Reviser's note: "RCW 6.17.045" and "6.17.050" are nonexistent RCW sections. The correct references are likely RCW 6.12.045 and 6.12.050.

Application—1984 c 276: See note following RCW 6.24.010.
Severability—1981 c 329: See note following RCW 6.24.010.

6.24.180 Mode of redemption. The mode of redeeming shall be as provided in this section. The person seeking to redeem shall give the sheriff at least five days written notice of his intention to apply to the sheriff for that purpose. It shall be the duty of the sheriff to notify the purchaser or redemptioner, as the case may be, or his attorney, of the receipt of such notice, if such person be within such county. At the time and place specified in such notice the person seeking to redeem may do so by paying to the sheriff the sum required. The sheriff shall give the person redeeming a certificate stating therein the sum paid on redemption, from whom redeemed, the date thereof and a description of the property redeemed. A person seeking to redeem shall submit to the sheriff the evidence of his right thereto, as follows:

(1) If he be a lien creditor, a copy of the docket of the judgment or decree under which he claims the right to redeem, certified by the clerk of the court where such judgment or decree is docketed; or if he seeks to redeem

upon mortgage, the certificate of the record thereof; also an affidavit, verified by himself or agent, showing the amount then actually due thereon.

(2) A copy of any assignment necessary to establish his claim, verified by the affidavit of himself or agent, showing the amount then actually due on the judgment, decree or mortgage.

(3) If the redemptioner or purchaser has a lien prior to that of the lien creditor seeking to redeem, such redemptioner or purchaser shall submit to the sheriff the evidence thereof, and the amount due thereon, or the same may be disregarded.

(4) If the purchaser or the purchaser's successor in interest has paid a sum on a prior lien or obligation secured by an interest in the property, he or she shall submit to the sheriff an affidavit, verified by the purchaser or the purchaser's successor in interest or an agent showing the amount paid on the prior lien or obligation or the prior lien or obligation may be disregarded. [1984 c 276 § 6; 1899 c 53 § 12; RRS § 599.]

Application—1984 c 276: See note following RCW 6.24.010.

Title 7
SPECIAL PROCEEDINGS AND ACTIONS

Chapters

- 7.06 Mandatory arbitration of civil actions.
7.20 Contempts.
7.24 Uniform declaratory judgments act.
7.68 Victims of crimes—Compensation, assistance.
7.75 Dispute resolution centers.

Chapter 7.06

MANDATORY ARBITRATION OF CIVIL ACTIONS

Sections

7.06.010 Authorization.

7.06.010 Authorization. In counties of the second class and larger, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter. In all other counties, the superior court of the county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter. [1984 c 258 § 511; 1979 c 103 § 1.]

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

Chapter 7.20
CONTEMPTS

Sections

7.20.140 Appeal.

7.20.140 Appeal. Either party to a judgment in a proceeding for a contempt, may appeal therefrom in like manner and with like effect as from judgment in an action, but such appeal shall not have the effect to stay the proceedings in any other action, suit or proceeding, or upon any judgment, decree or order therein, concerning which, or wherein such contempt was committed. [1984 c 258 § 70; Code 1881 § 738; 1877 p 150 § 743; 1869 p 171 § 680; RRS § 1062.]

Rules of court: Cf. RAP 2.2(a)(3).

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

Chapter 7.24

UNIFORM DECLARATORY JUDGMENTS ACT

Sections

7.24.040	Repealed. (Effective January 1, 1985.)
7.24.050	General powers not restricted by express enumeration. (Effective January 1, 1985.)

7.24.040 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

7.24.050 General powers not restricted by express enumeration. (Effective January 1, 1985.) The enumeration in RCW 7.24.020 and 7.24.030 does not limit or restrict the exercise of the general powers conferred in RCW 7.24.010, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty. [1984 c 149 § 3; 1935 c 113 § 5; RRS § 784–5.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 7.68

VICTIMS OF CRIMES—COMPENSATION, ASSISTANCE

Sections

7.68.035	Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns. (Effective July 1, 1985.)
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7.68.035 Penalty assessments in addition to fine or bail forfeiture—Distribution—Establishment of crime victim and witness programs in county—Contribution required from cities and towns. (Effective July 1, 1985.) (1) Whenever any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be fifty dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and twenty-five dollars for any case or cause

of action that includes convictions of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.65.090, 46.61.502, 46.61.504, 46.52.100, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) Whenever any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Until June 30, 1987, each county shall deposit not less than one and seventy-five one-hundredths percent of the money it retains under RCW 10.82.070 and chapter 3.62 RCW and all money it receives under subsection (8) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. After that date, each county shall continue to provide for such comprehensive programs. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each county within the county with a population of more than

one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure that the penalty assessments of this chapter are imposed and collected.

(7) Penalty assessments under this section shall also be imposed in juvenile offense dispositions under Title 13 RCW. Upon motion of a party and a showing of good cause, the court may modify the penalty assessment in the disposition of juvenile offenses under Title 13 RCW.

(8) Until June 30, 1987, every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.46.120, 3.50.100, and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section. After that date, every city and town shall transmit to the county a percentage of such money, up to one and seventy-five one-hundredths percent, which matches the percentage of court revenue the county provides under subsection (4) of this section. [1984 c 258 § 311; 1983 c 239 § 1; 1982 1st ex.s. c 8 § 1; 1977 ex.s. c 302 § 10.]

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.

Effective dates—1982 1st ex.s. c 8: "Chapter 8, Laws of 1982 1st ex. sess. 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 sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 § 29; 1982 1st ex.s. c 8 § 9.] Section 2 of chapter 8, Laws of 1982 1st ex. sess. is an amendment to RCW 7.68.070. Sections 3 and 6 of that chapter are codified as RCW 7.68.915 and 2.56.035, respectively. The remainder of the act took effect March 27, 1982.

Intent—Reports—1982 1st ex.s. c 8: "The intent of the legislature is that the victim of crime program will be self-funded. Toward

that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim assistance, as provided in RCW 7.68-.035, be re-examined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 § 10.]

Chapter 7.75

DISPUTE RESOLUTION CENTERS

Sections	
7.75.010	Legislative findings and intent. (Effective January 1, 1985.)
7.75.020	Dispute resolution center—Creation—Plan—Approval by county or municipality—Annual report on operation of centers. (Effective January 1, 1985.)
7.75.030	Services to be provided without charge or for fee based on ability to pay. (Effective January 1, 1985.)
7.75.040	Dispute resolution agreements required—When admissible as evidence. (Effective January 1, 1985.)
7.75.050	Confidentiality of centers' files, etc.—Exception—Privileged communications. (Effective January 1, 1985.)
7.75.060	Withdrawal from dispute resolution process. (Effective January 1, 1985.)
7.75.070	Centers may seek and expend funds. (Effective January 1, 1985.)
7.75.080	Statutes of limitations tolled until dispute resolution process concluded. (Effective January 1, 1985.)
7.75.090	Application of chapter. (Effective January 1, 1985.)

7.75.010 Legislative findings and intent. (Effective January 1, 1985.) (1) The legislature finds and declares that:

(a) The resolution of many disputes can be costly and complex in a judicial setting where the parties involved are necessarily in an adversary posture and subject to formalized procedures; and

(b) Alternative dispute resolution centers can meet the needs of Washington's citizens by providing forums in which persons may voluntarily participate in the resolution of disputes in an informal and less adversarial atmosphere.

(2) It is the intent of the legislature that programs established pursuant to this chapter:

(a) Stimulate the establishment and use of dispute resolution centers to help meet the need for alternatives to the courts for the resolution of certain disputes.

(b) Encourage continuing community participation in the development, administration, and oversight of local programs designed to facilitate the informal resolution of disputes between and among members of the community.

(c) Offer structures for dispute resolution which may serve as models for resolution centers in other communities.

(d) Serve a specific community or locale and resolve disputes that arise within that community or locale.

(e) Educate the community on ways of using the services of the neighborhood dispute resolution center directly and in a preventive capacity. [1984 c 258 § 501.]

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

7.75.020 Dispute resolution center—Creation—Plan—Approval by county or municipality—Annual report on operation of centers. (Effective January 1, 1985.) (1) A dispute resolution center may be created and operated by a municipality, county, or by a corporation organized exclusively for the resolution of disputes or for charitable or educational purposes. The corporation shall not be organized for profit, and no part of the net earnings may inure to the benefit of any private shareholders or individuals. The majority of the directors of such a corporation shall not consist of members of any single profession.

(2) A dispute resolution center may not begin operation under this chapter until a plan for establishing a center for the mediation and settlement of disputes has been approved by the legislative authority of the municipality or county creating the center or, in the case of a center operated by a nonprofit corporation, by the legislative authority of the municipality or county within which the center will be located. A plan for a dispute resolution center shall not be approved and the center shall not begin operation until the legislative authority finds that the plan adequately prescribes:

(a) Procedures for filing requests for dispute resolution services with the center and for scheduling mediation sessions participated in by the parties to the dispute;

(b) Procedures to ensure that each dispute mediated by the center meets the criteria for appropriateness for mediation set by the legislative authority and for rejecting disputes which do not meet the criteria;

(c) Procedures for giving notice of the time, place, and nature of the mediation session to the parties, and for conducting mediation sessions that comply with the provisions of this chapter;

(d) Procedures which ensure that participation by all parties is voluntary;

(e) Procedures for obtaining referrals from public and private bodies;

(f) Procedures for meeting the particular needs of the participants, including, but not limited to, providing services at times convenient to the participants, in sign language, and in languages other than English;

(g) Procedures for providing trained and certified mediators who, during the dispute resolution process, shall make no decisions or determinations of the issues involved, but who shall facilitate negotiations by the participants themselves to achieve a voluntary resolution of the issues; and

(h) Procedures for informing and educating the community about the dispute resolution center and encouraging the use of the center's services in appropriate cases.

(3) A dispute resolution center established under this chapter annually shall provide to the administrator for

the courts such data regarding its operation as the administrator requires. The administrator shall report annually beginning January 1, 1986, to the governor, the supreme court, and the legislature regarding the operation of centers established under this chapter. [1984 c 258 § 502.]

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

7.75.030 Services to be provided without charge or for fee based on ability to pay. (Effective January 1, 1985.) A dispute resolution center established under this chapter shall provide dispute resolution services either without charge to the participants or for a fee which is based on the participant's ability to pay. [1984 c 258 § 503.]

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

7.75.040 Dispute resolution agreements required—When admissible as evidence. (Effective January 1, 1985.) (1) In conducting a dispute resolution process, a center established under this chapter shall require:

(a) That the disputing parties enter into a written agreement which expresses the method by which they shall attempt to resolve the issues in dispute; and

(b) That at the conclusion of the dispute resolution process, the parties enter into a written agreement which sets forth the settlement of the issues and the future responsibilities, if any, of each party.

(2) A written agreement entered into with the assistance of a center at the conclusion of the written dispute resolution process is admissible as evidence in any judicial or administrative proceeding. [1984 c 258 § 504.]

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

7.75.050 Confidentiality of centers' files, etc.—Exception—Privileged communications. (Effective January 1, 1985.) All memoranda, work notes or products, or case files of centers established under this chapter are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless the court or administrative tribunal determines that the materials were submitted by a participant to the center for the purpose of avoiding discovery of the material in a subsequent proceeding. Any communication relating to the subject matter of the resolution made during the resolution process by any participant, mediator, or any other person is a privileged communication and is not subject to disclosure in any judicial or administrative proceeding unless all parties to the communication waive the privilege. The foregoing privilege and limitation on evidentiary use does not apply to any communication of a threat that injury or damage may be inflicted on any person or on the property of a party to the dispute, to the extent the communication may be relevant evidence in a criminal matter. [1984 c 258 § 505.]

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

7.75.060 Withdrawal from dispute resolution process. (Effective January 1, 1985.) Any person who voluntarily enters a dispute resolution process at a center established under this chapter may revoke his or her consent, withdraw from dispute resolution, and seek judicial or administrative redress prior to reaching a written resolution agreement. The withdrawal shall be in writing. No legal penalty, sanction, or restraint may be imposed upon the person. [1984 c 258 § 506.]

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

7.75.070 Centers may seek and expend funds. (Effective January 1, 1985.) A dispute resolution center established under this chapter may seek and accept contributions from counties and municipalities, agencies of the state and federal governments, private sources, and any other available funds, and may expend the funds to carry out the purposes of this chapter. [1984 c 258 § 507.]

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

7.75.080 Statutes of limitations tolled until dispute resolution process concluded. (Effective January 1, 1985.) Any applicable statute of limitations shall be tolled as to participants in dispute resolution at a center established under this chapter during the period which begins with the date of the participants' execution of the written agreement required by RCW 7.75.040(1)(a) and ends on the date that a written agreement at the conclusion of the dispute resolution process is executed under RCW 7.75.040(1)(b) or a participant's written notice of withdrawal from the dispute resolution process is executed under RCW 7.75.060. [1984 c 258 § 508.]

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

7.75.090 Application of chapter. (Effective January 1, 1985.) Nothing in this chapter precludes any person or persons not operating under RCW 7.75.020 from providing dispute resolution services. However, the provisions of RCW 7.75.050, relating to confidentiality, and RCW 7.75.080, relating to statutes of limitation, apply only to proceedings conducted by a dispute resolution center established under this chapter. [1984 c 258 § 509.]

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

Title 8 EMINENT DOMAIN

Chapters

- 8.25 Additional provisions applicable to eminent domain proceedings.**
- 8.26 Relocation assistance—Real property acquisition policy.**
- 8.28 Miscellaneous provisions.**

Chapter 8.25

ADDITIONAL PROVISIONS APPLICABLE TO EMINENT DOMAIN PROCEEDINGS

Sections

- 8.25.070 Award of attorney's fees and witness fees to condemnee—Conditions to award.

8.25.070 Award of attorney's fees and witness fees to condemnee—Conditions to award. (1) Except as otherwise provided in subsection (3) of this section, if a trial is held for the fixing of the amount of compensation to be awarded to the owner or party having an interest in the property being condemned, the court shall award the condemnee reasonable attorney's fees and reasonable expert witness fees in the event of any of the following:

(a) If condemnor fails to make any written offer in settlement to condemnee at least thirty days prior to commencement of said trial; or

(b) If the judgment awarded as a result of the trial exceeds by ten percent or more the highest written offer in settlement submitted to those condemnees appearing in the action by condemnor in effect thirty days before the trial.

(2) The attorney general or other attorney representing a condemnor in effecting a settlement of an eminent domain proceeding may allow to the condemnee reasonable attorney fees.

(3) Reasonable attorney fees and reasonable expert witness fees authorized by this section shall be awarded only if the condemnee stipulates, if requested to do so in writing by the condemnor, to an order of immediate possession and use of the property being condemned within thirty days after receipt of the written request, or within fifteen days after the entry of an order adjudicating public use whichever is later and thereafter delivers possession of the property to the condemnor upon the deposit in court of a warrant sufficient to pay the amount offered as provided by law. In the event, however, the condemnor does not request the condemnee to stipulate to an order of immediate possession and use prior to trial, the condemnee shall be entitled to an award of reasonable attorney fees and reasonable expert witness fees as authorized by subsections (1) and (2) of this section.

(4) Reasonable attorney fees as authorized in this section shall not exceed the general trial rate, per day customarily charged for general trial work by the condemnee's attorney for actual trial time and his or her hourly rate for preparation. Reasonable expert witness fees as authorized in this section shall not exceed the customary rates obtaining in the county by the hour for investigation and research and by the day or half day for trial attendance.

(5) In no event may any offer in settlement be referred to or used during the trial for any purpose in determining the amount of compensation to be paid for the property. [1984 c 129 § 1; 1971 ex.s. c 39 § 3; 1967 ex.s. c 137 § 3.]

Court appointed experts: Rules of court: ER 706.

Chapter 8.26

RELOCATION ASSISTANCE—REAL PROPERTY ACQUISITION POLICY

Sections

8.26.040	Displacement and relocation expenses—Payments.
8.26.050	Displacement and relocation expenses—Additional payments to displaced home owner.
8.26.110	Rules and regulations.

8.26.040 Displacement and relocation expenses—

Payments. (1) Whenever the acquisition of real property for a program or project undertaken by the state or a local public body will result in the displacement of any person on or after July 1, 1971, the acquiring agency shall make a payment to any displaced person, upon proper application as approved by the agency, for:

(a) Actual, reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the acquiring agency; and

(c) Actual reasonable expenses in searching for a replacement business or farm.

(2) Any displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive a moving expense allowance, determined according to a schedule established by the state department of transportation, not to exceed three hundred dollars, and a dislocation allowance of two hundred dollars.

(3) Any displaced person eligible for payments under subsection (1) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no payment may be made under this subsection unless the acquiring agency is satisfied that the business:

(a) Cannot be relocated without a substantial loss of its existing patronage; and

(b) Is not a part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business. For the purposes of this subsection, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation, before federal or local income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for the project, or during such other period as the acquiring

agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. [1984 c 7 § 1; 1971 ex.s. c 240 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

8.26.050 Displacement and relocation expenses—Additional payments to displaced home owner. (1) In addition to payments otherwise authorized by this chapter, the state or local public body shall make an additional payment not in excess of fifteen thousand dollars to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty days before the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, which when added to the acquisition costs of the dwelling acquired, equals the reasonable cost of a dwelling adequate to accommodate the displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subsection shall be made in accordance with standards established by the state department of transportation.

(b) The amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. This amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than one hundred eighty days before the initiation of negotiations for the acquisition of the dwelling. This amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder of the term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be determined by regulations issued pursuant to RCW 8.26.110.

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on the date on which he receives from the acquiring agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date. [1984 c 7 § 2; 1971 ex.s. c 240 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

8.26.110 Rules and regulations. (1) The state secretary of transportation after full consultation with the department of general administration shall adopt such

rules consistent with this chapter and Public Law 91-646, as may be necessary to assure:

(a) That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for that person by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

(c) That any person aggrieved by a determination as to eligibility for payment authorized by this chapter, or the amount of a payment, may have his application reviewed by the executive head of the state agency or local public body.

(2) The state secretary of transportation after full consultation with the department of general administration may prescribe such other regulations and procedures, consistent with the provisions of this chapter, as deemed necessary or appropriate to carry out this chapter. [1984 c 7 § 3; 1971 ex.s. c 240 § 11.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 8.28

MISCELLANEOUS PROVISIONS

Sections

8.28.040 Interest on verdict fixed—Suspension during pendency of appeal.

8.28.040 Interest on verdict fixed—Suspension during pendency of appeal. Whenever in any eminent domain proceeding, heretofore or hereafter instituted for the taking or damaging of private property, a verdict shall have been returned by the jury, or by the court if the case be tried without a jury, fixing the amount to be paid as compensation for the property so to be taken or damaged, such verdict shall bear interest at the maximum rate of interest permitted at that time under RCW 19.52.020 from the date of its entry to the date of payment thereof: *Provided*, That the running of such interest shall be suspended, and such interest shall not accrue, for any period of time during which the entry of final judgment in such proceeding shall have been delayed solely by the pendency of an appeal taken in such proceeding. [1984 c 129 § 2; 1943 c 28 § 1; Rem. Supp. 1943 § 936-4.]

Title 9

CRIMES AND PUNISHMENTS

(See also Washington Criminal Code, Title 9A RCW)

Chapters

- 9.04 Advertising, crimes relating to.
- 9.24 Corporations, crimes relating to.
- 9.41 Firearms and dangerous weapons.
- 9.46 Gambling—1973 act.
- 9.47A Inhaling toxic fumes.
- 9.68A Sexual exploitation of children.

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- 9.91 Miscellaneous crimes.
- 9.92 Punishment.
- 9.94A Sentencing reform act of 1981.
- 9.95 Prison terms, paroles, and probation.

Chapter 9.04

ADVERTISING, CRIMES RELATING TO

Sections

9.04.020 Repealed.

9.04.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.24

CORPORATIONS, CRIMES RELATING TO

Sections

9.24.125 Filing false statements—Penalty.

9.24.125 Filing false statements—Penalty. See RCW 43.07.210.

Chapter 9.41

FIREARMS AND DANGEROUS WEAPONS

Sections

9.41.160 Penalty. (Effective July 1, 1985.)

9.41.160 Penalty. (Effective July 1, 1985.) Any violation of any provision of this chapter, except as otherwise provided, shall be a misdemeanor and punishable accordingly. [1984 c 258 § 312; 1983 c 232 § 11; 1983 c 3 § 7; 19 c 124 § 12; 1935 c 172 § 16; RRS § 2516-16.]

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.

Severability—1983 c 232: See note following RCW 9.41.010.

Chapter 9.46

GAMBLING—1973 ACT

Sections

9.46.020 Definitions, requirements, restrictions.
 9.46.030 Certain gambling activities authorized.
 9.46.050 Gambling commission—Chairman—Quorum—Meetings—Compensation and travel expenses—Bond—Removal. (Effective July 1, 1985.)
 9.46.115 Repealed.
 9.46.116 Fees on pull tab and punchboard sales.

9.46.020 Definitions, requirements, restrictions. (1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;

(e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(f) Said game is conducted or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

The legislature hereby authorizes the wagering on the outcome of the roll of dice or the flipping of or matching of coins on the premises of an establishment engaged in the business of selling food or beverages for consumption on the premises to determine which of the participants will pay for certain items of food or beverages served or sold by such establishment and therein consumed. Such establishments are hereby authorized to possess dice and dice cups on their premises, but only for use in such limited wagering. Persons engaged in such limited form of wagering shall not be subject to the criminal or civil penalties otherwise provided for in this chapter: *Provided*, That minors shall be barred from engaging in the wagering activities allowed by this chapter.

(2) "Bingo" means a game conducted only in the county within which the organization is principally located in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. For the purposes of this subsection the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer: *Provided*, That any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981 shall be exempt from the requirement that such

game be conducted in the county in which the organization is principally located.

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. Such an organization must have been organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required. It must have not less than fifteen bona fide active members each with the right to an equal vote in the election of the officers, or board members, if any, who determine the policies of the organization in order to receive a gambling license. An organization must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(4) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this

chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

(6) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(7) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(8) "Fishing derby" means a fishing contest, with or without the payment or giving of an entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the species, size, weight, or quality of fish caught in a bona fide fishing or recreational event.

(9) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (14) of this section shall not constitute gambling.

(10) "Gambling device" means: (a) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. But in the application of this definition, a pinball machine or similar mechanical amusement device which confers only an immediate and unrecorded right of replay on players thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won or a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins

inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: *Provided further*, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: *Provided further*, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(11) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: *Provided, however*, That this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

(12) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found, shall be presumed to be intended to be used for professional gambling.

(13) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

(14) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state;

(d) Visitation to any business establishment to obtain a coupon, or entry blank;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material;

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer;

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: *Provided*, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and the period of the drawing and its promotion shall not extend for more than seven consecutive days: *Provided further*, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the initial opening of any such outlet; or

(i) The payment of an admission fee to gain admission to any agricultural fair authorized under chapters 15.76 or 36.37 RCW where (i) the scheme is conducted for promotional or advertising purposes, not including the promotion or advertisement of the scheme itself; and (ii) the person or organization conducting the scheme receives no portion of the admission fee either directly or indirectly and receives no other money for conducting the scheme either directly or indirectly, other than what might be received indirectly as a result of the success of the promotional or advertising aspect of the scheme.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(15) "Member" and "bona fide member". As used in this chapter, member and bona fide member each mean a person accepted for membership in an organization eligible to be licensed by the commission under this chapter upon application, with such action being recorded in the official minutes of a regular meeting or who has held full and regular membership status in the organization for a period of not less than twelve consecutive months prior to participating in the management or operation of any gambling activity. Such membership must in no way be dependent upon, or in any way related to, the payment of consideration to participate in any gambling activity.

Member or bona fide member shall include only members of an organization's specific chapter or unit licensed by the commission or otherwise actively conducting the gambling activity: *Provided*, That

(a) Members of chapters or local units of a state, regional or national organization may be considered members of the parent organization for the purpose of a gambling activity conducted by the parent organization, if the rules of the parent organization so permit;

(b) Members of a bona fide auxiliary to a principal organization may be considered members of the principal organization for the purpose of a gambling activity conducted by the principal organization. Members of the principal organization may also be considered members of its auxiliary for the purpose of a gambling activity conducted by the auxiliary; and

(c) Members of any chapter or local unit within the jurisdiction of the next higher level of the parent organization, and members of a bona fide auxiliary to that chapter or unit, may assist any other chapter or local unit of that same organization licensed by the commission in the conduct of gambling activities.

No person shall be a member of any organization if that person's primary purpose for membership is to become, or continue to be, a participant in, or an operator or manager of, any gambling activity or activities.

(16) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(17) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (14) of this section.

Conduct under subparagraph (a), except as exempted under RCW 9.46.030 as now or hereafter amended, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia,

equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling: *Provided*, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this chapter: *Provided, further*, That the books and records of the games shall be open to public inspection.

(18) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of July 16, 1973, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(19) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(20) "Social card game" means a card game, including but not limited to the game commonly known as "Mah Jongg", which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players: *Provided*, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing in excess of one dollar per half hour of playing time by that

person collected in advance: *Provided*, That a fee may also be charged for entry into a tournament for prizes, which fee shall not exceed twenty-five dollars, including all separate fees which might be paid by a player for various phases or events of the tournament: *Provided further*, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization; and

(e) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to RCW 9.46.070.

(21) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(22) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(23) "Fund raising event" means a fund raising event conducted during any seventy-two consecutive hours but exceeding twenty-four consecutive hours and not more than once in any calendar year or a fund raising event conducted not more than twice each calendar year for not more than twenty-four consecutive hours each time by a bona fide charitable or nonprofit organization as defined in subsection (3) of this section other than any agricultural fair referred to thereunder, upon authorization therefor by the commission, which the legislature hereby authorizes to issue a license therefor, with or without fee, permitting the following activities, or any of them, during such event: Bingo, amusement games, contests of chance, lotteries and raffles: *Provided*, That (a) gross wagers and bets received by the organization less the amount of money paid by the organization as winnings and for the purchase cost of prizes given as winnings do not exceed ten thousand dollars during the total calendar days of such fund raising event in the calendar year; (b) such activities shall not include any mechanical gambling or lottery device activated by the insertion of a coin or by the insertion of any object purchased by any person taking a chance by gambling in respect to the device; (c) only bona fide members of the organization who are not paid for such service shall participate in the management or operation of the activities, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization; and (d) such organization shall notify the appropriate local law enforcement agency of the time and place where such activities shall be conducted. The commission shall require an annual

information report setting forth in detail the expenses incurred and the revenue received relative to the activities permitted.

Bona fide charitable or nonprofit organizations holding a license to conduct a fund raising event may joint [join] together to jointly conduct a fund raising event if:

(i) Approval to do so is received from the commission; and

(ii) The method of dividing the income and expenditures and the method of recording and handling of funds are disclosed to the commission in the application for approval of the joint fund raising event and are approved by the commission.

The gross wagers and bets received by the organizations less the amount of money paid by the organizations as winnings and for the purchase costs of prizes given as winnings may not exceed ten thousand dollars during the total calendar days of such event. The net receipts each organization receives shall count against the organization's annual limit stated in this subsection.

A joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the net receipts for the purposes of the number of such events an organization may conduct each year.

The commission may issue a joint license for a joint fund raising event and charge a license fee for such license according to a schedule of fees adopted by the commission which reflects the added cost to the commission of licensing more than one licensee for the event. [1984 c 207 § 1; 1981 c 139 § 1. Prior: 1977 ex.s. c 326 § 1; 1977 ex.s. c 76 § 1; 1975-'76 2nd ex.s. c 87 § 2; 1975 1st ex.s. c 259 § 2; 1974 ex.s. c 155 § 2; 1974 ex.s. c 135 § 2; 1973 1st ex.s. c 218 § 2.]

Severability—1981 c 139: "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." [1981 c 139 § 19.]

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

9.46.030 Certain gambling activities authorized. (1)

The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, and fund raising events, and to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by only members, their guests, and members of a chapter or unit organized under the same state, regional, or national charter or constitution, to play social card games authorized by the commission, when licensed, conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(2) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand

dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: *Provided*, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles.

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.020(2) as now or hereafter amended: *Provided*, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together do not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(4) The legislature hereby authorizes any person, association or organization operating an established business primarily engaged in the selling of food or drink for consumption on the premises to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant to such business when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(5) The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and

rules and regulations adopted by the commission at such locations as the commission may authorize.

(6) The legislature hereby authorizes any person, association, or organization to conduct sports pools without a license to do so from the commission but only when the outcome of which is dependent upon the score, or scores, of a certain athletic contest and which is conducted only in the following manner:

(a) A board or piece of paper is divided into one hundred equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered directly to prospective contestants at one dollar or less; and

(b) The purchaser of each chance or square signs his or her name on the face of each square or chance he or she purchases; and

(c) At some time not later than prior to the start of the subject athletic contest the pool is closed and no further chances in the pool are sold; and

(d) After the pool is closed a prospective score is assigned by random drawing to each square; and

(e) All money paid by entrants to enter the pool less taxes is paid out as the prize or prizes to those persons holding squares assigned the winning score or scores from the subject athletic contest; and

(f) The sports pool board is available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand at all times prior to the payment of the prize; and

(g) The person or organization conducting the pool is conducting no other sports pool on the same athletic event; and

(h) The sports pool conforms to any rules and regulations of the commission applicable thereto.

(7) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct, without the necessity of obtaining a permit or license to do so from the commission, golfing sweepstakes permitting wagers of money, and the same shall not constitute such gambling or lottery as otherwise in this chapter prohibited, or be subject to civil or criminal penalties thereunder, but this only when the outcome of such golfing sweepstakes is dependent upon the score, or scores, or the playing ability, or abilities, of a golfing contest between individual players or teams of such players, conducted in the following manner:

(a) Wagers are placed by buying tickets on any players in a golfing contest to "win", "place" or "show" and those holding tickets on the three winners may receive a payoff similar to the system of betting identified as parimutuel, such moneys placed as wagers to be used primarily as winners proceeds, except moneys used to defray the expenses of such golfing sweepstakes or otherwise used to carry out the purposes of such organization; or

(b) Participants in any golfing contest(s) pay a like sum of money into a common fund on the basis of attaining a stated number of points ascertainable from the score of such participants, and those participants attaining such stated number of points share equally in the

moneys in the common fund, without any percentage of such moneys going to the sponsoring organization; and

(c) Participation is limited to members of the sponsoring organization and their bona fide guests.

(8) The legislature hereby authorizes bowling establishments to conduct, without the necessity of obtaining a permit or license to do so, as a commercial stimulant, a bowling activity which permits bowlers to purchase tickets from the establishment for a predetermined and posted amount of money which tickets are then selected by the luck of the draw and the holder of the matching ticket so drawn has an opportunity to bowl a strike and if successful receives a predetermined and posted monetary prize: *Provided*, That all sums collected by the establishment from the sale of tickets shall be returned to purchasers of tickets and no part of the proceeds shall inure to any person other than the participants winning in the game or a recognized charity. The tickets shall be sold, and accounted for, separately from all other sales of the establishment. The price of any single ticket shall not exceed one dollar. Accounting records shall be available for inspection during business hours by any person purchasing a chance thereon, by the commission or its representatives, or by any law enforcement agency.

(9) (a) The legislature hereby authorizes any bona fide charitable or nonprofit organization which is licensed pursuant to RCW 66.24.400, and its officers and employees, to allow the use of the premises, furnishings, and other facilities not gambling devices of such organization by members of the organization, and members of a chapter or unit organized under the same state, regional, or national charter or constitution, who engage as players in the following types of gambling activities only:

(i) Social card games as defined in RCW 9.46.020(20)(a), (b), (c), and (d); and

(ii) Social dice games, which shall be limited to contests of chance, the outcome of which are determined by one or more rolls of dice.

(b) Bona fide charitable or nonprofit organizations shall not be required to be licensed by the commission in order to allow use of their premises in accordance with this subsection; however, the following conditions must be met:

(i) No organization, corporation, or person shall collect or obtain or charge any percentage of or shall collect or obtain any portion of the money or thing of value wagered or won by any of the players: *Provided*, That a player may collect his or her winnings; and

(ii) No organization, corporation, or person shall collect or obtain any money or thing of value from, or charge or impose any fee upon, any person which either enables him or her to play or results in or from his or her playing: *Provided*, That this subparagraph (ii) shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this subsection.

The penalties provided for professional gambling in this chapter shall not apply to the activities authorized by this section when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission. [1984 c 70 § 1;

1981 c 139 § 2. Prior: 1977 ex.s. c 326 § 2; 1977 ex.s. c 165 § 2; 1975-'76 2nd ex.s. c 87 § 3; 1975 1st ex.s. c 259 § 3; 1974 ex.s. c 155 § 3; 1974 ex.s. c 135 § 3; 1973 1st ex.s. c 218 § 3.]

Severability—1981 c 139: See note following RCW 9.46.020.

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

9.46.050 Gambling commission—Chairman—Quorum—Meetings—Compensation and travel expenses—Bond—Removal. (Effective July 1, 1985.)

(1) Upon appointment of the initial membership the commission shall meet at a time and place designated by the governor and proceed to organize, electing one of such members as chairman of the commission who shall serve until July 1, 1974; thereafter a chairman shall be elected annually.

(2) A majority of the members shall constitute a quorum of the commission: *Provided*, That all actions of the commission relating to the regulation of licensing under this chapter shall require an affirmative vote by three or more members of the commission.

(3) The principal office of the commission shall be at the state capitol, and meetings shall be held at least quarterly and at such other times as may be called by the chairman or upon written request to the chairman of a majority of the commission.

(4) Members shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(5) Before entering upon the duties of his office, each of the members of the commission shall enter into a surety bond executed by a surety company authorized to do business in this state, payable to the state of Washington, to be approved by the governor, in the penal sum of fifty thousand dollars, conditioned upon the faithful performance of his duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The premium for said bond shall be paid by the commission.

(6) Any member of the commission may be removed for inefficiency, malfeasance, or misfeasance in office, upon 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. Removal of any member of the commission by the tribunal shall disqualify such member for reappointment. [1984 c 287 § 9; 1975-'76 2nd ex.s. c 34 § 7; 1973 1st ex.s. c 218 § 5.]

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.

9.46.115 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.46.116 Fees on pull tab and punchboard sales. The commission shall charge fees or increased fees on pull tabs sold over-the-counter and on sales from punchboards and pull tab devices at levels necessary to assure that the increased revenues are equal or greater to the amount of revenue lost by removing the special tax on coin-operated gambling devices in *section 1 of this act. [1984 c 135 § 2.]

*Reviser's note: 1984 c 135 § 1 repealed RCW 9.46.115.

Effective date—1984 c 135: "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, 1984." [1984 c 135 § 3.]

Chapter 9.47A

INHALING TOXIC FUMES

(Formerly: Glue sniffing)

Sections

9.47A.010	Definition.
9.47A.020	Unlawful inhalation—Exception.
9.47A.030	Possession of certain substances prohibited, when.
9.47A.040	Sale of certain substances prohibited, when.

9.47A.010 Definition. As used in this chapter, the phrase "substance containing a solvent having the property of releasing toxic vapors or fumes" shall mean and include any substance containing one or more of the following chemical compounds:

- (1) Acetone;
- (2) Amylacetate;
- (3) Benzol or benzene;
- (4) Butyl acetate;
- (5) Butyl alcohol;
- (6) Carbon tetrachloride;
- (7) Chloroform;
- (8) Cyclohexanone;
- (9) Ethanol or ethyl alcohol;
- (10) Ethyl acetate;
- (11) Hexane;
- (12) Isopropanol or isopropyl alcohol;
- (13) Isopropyl acetate;
- (14) Methyl "cellosolve" acetate;
- (15) Methyl ethyl ketone;
- (16) Methyl isobutyl ketone;
- (17) Toluol or toluene;
- (18) Trichloroethylene;
- (19) Tricresyl phosphate;
- (20) Xylol or xylene; or
- (21) Any other solvent, material substance, chemical, or combination thereof, having the property of releasing toxic vapors. [1984 c 68 § 1; 1969 ex.s. c 149 § 1.]

9.47A.020 Unlawful inhalation—Exception. It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance as defined in RCW 9.47A.010 or to induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms

of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes. This section does not apply to the inhalation of any anesthesia for medical or dental purposes. [1984 c 68 § 2; 1969 ex.s. c 149 § 2.]

9.47A.030 Possession of certain substances prohibited, when. No person may, for the purpose of violating RCW 9.47A.020, use, or possess for the purpose of so using, any substance containing a solvent having the property of releasing toxic vapors or fumes. [1984 c 68 § 3; 1969 ex.s. c 149 § 3.]

9.47A.040 Sale of certain substances prohibited, when. No person may sell, offer to sell, deliver, or give to any other person any container of a substance containing a solvent having the property of releasing toxic vapors or fumes, if he has knowledge that the product sold, offered for sale, delivered, or given will be used for the purpose set forth in RCW 9.47A.020. [1984 c 68 § 4; 1969 ex.s. c 149 § 4.]

Chapter 9.68A

SEXUAL EXPLOITATION OF CHILDREN

(Formerly: Child pornography)

Sections

9.68A.001	Legislative finding.
9.68A.010	Repealed.
9.68A.011	Definitions.
9.68A.020	Repealed.
9.68A.030	Repealed.
9.68A.040	Sexual exploitation of a minor—Elements of crime—Penalties.
9.68A.050	Dealing in depictions of minor engaged in sexually explicit conduct.
9.68A.060	Sending, bringing into state depictions of minor engaged in sexually explicit conduct.
9.68A.070	Possession of depictions of minor engaged in sexually explicit conduct.
9.68A.080	Processors of depictions of minor engaged in sexually explicit conduct—Report required.
9.68A.090	Communication with minor for immoral purposes.
9.68A.100	Patronizing juvenile prostitute.
9.68A.110	Certain defenses barred, permitted.
9.68A.120	Seizure and forfeiture of property.
9.68A.130	Recovery of costs of suit by minor.
9.68A.900	Repealed.
9.68A.910	Severability—1984 c 262.

9.68A.001 Legislative finding. The legislature finds that the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance. The care of children is a sacred trust and should not be abused by those who seek commercial gain or personal gratification based on the exploitation of children.

The legislature further finds that the protection of children from sexual exploitation can be accomplished without infringing on a constitutionally protected activity. The definition of "sexually explicit conduct" and other operative definitions demarcate a line between

protected and prohibited conduct and should not inhibit legitimate scientific, medical, or educational activities. [1984 c 262 § 1.]

9.68A.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.68A.011 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout the [this] chapter.

(1) To "photograph" means to make a print, negative, slide, motion picture, or videotape. A "photograph" means any tangible item produced by photographing.

(2) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

(3) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital–genital, oral–genital, anal–genital, or oral–anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation, for the purpose of sexual stimulation of the viewer;

(d) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer;

(e) Exhibition of the genitals or unclothed pubic or rectal areas of any minor for the purpose of sexual stimulation of the viewer;

(f) Defecation or urination for the purpose of sexual stimulation of the viewer; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer. [1984 c 262 § 2.]

9.68A.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.68A.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.68A.040 Sexual exploitation of a minor—Elements of crime—Penalties. (1) A person is guilty of sexual exploitation of a minor if the person:

(a) Compels a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Sexual exploitation of a minor is:

(a) A class B felony punishable under chapter 9A.20 RCW if the minor exploited is less than sixteen years old at the time of the offense; and

(b) A class C felony punishable under chapter 9A.20 RCW if the minor exploited is at least sixteen years old

but less than eighteen years old at the time of the offense. [1984 c 262 § 3.]

9.68A.050 Dealing in depictions of minor engaged in sexually explicit conduct. A person who:

(1) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or

(2) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct

is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) As used in this section, "minor" means a person under sixteen years of age. [1984 c 262 § 4.]

9.68A.060 Sending, bringing into state depictions of minor engaged in sexually explicit conduct. (1) A person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) As used in this section, "minor" means a person under sixteen years of age. [1984 c 262 § 5.]

9.68A.070 Possession of depictions of minor engaged in sexually explicit conduct. (1) A person who knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct is guilty of a gross misdemeanor.

(2) As used in this section, "minor" means a person under sixteen years of age. [1984 c 262 § 6.]

9.68A.080 Processors of depictions of minor engaged in sexually explicit conduct—Report required. (1) A person who, in the course of processing or producing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the proper law enforcement agency. Persons failing to do so are guilty of a gross misdemeanor.

(2) As used in this section, "minor" means a person under sixteen years of age. [1984 c 262 § 7.]

9.68A.090 Communication with minor for immoral purposes. (1) A person who communicates with a minor for immoral purposes is guilty of a gross misdemeanor, unless that person has previously been convicted of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) As used in this section, "minor" means a person under sixteen years of age. [1984 c 262 § 8.]

9.68A.100 Patronizing juvenile prostitute. (1) A person is guilty of patronizing a juvenile prostitute if that

person engages or agrees or offers to engage in sexual conduct with a minor in return for a fee, and is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) As used in this section, "minor" means a person under eighteen years of age. [1984 c 262 § 9.]

9.68A.110 Certain defenses barred, permitted. (1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to individual case treatment in a recognized medical facility or individual case treatment by a psychiatrist or psychologist licensed under Title 18 RCW, or to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: *Provided*, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040 or 9.68A.100, it is not a defense that the defendant did not know the alleged victim's age: *Provided*, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.090, it is not a defense that the defendant did not know the alleged victim's age: *Provided*, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least sixteen years of age based on declarations by the alleged victim.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim. [1984 c 262 § 10.]

9.68A.120 Seizure and forfeiture of property. The following are subject to seizure and forfeiture:

(1) All visual or printed matter that depicts a minor engaged in sexually explicit conduct.

(2) All raw materials, equipment, and other tangible personal property of any kind used or intended to be used to manufacture or process any visual or printed matter that depicts a minor engaged in sexually explicit conduct, and all conveyances, including aircraft, vehicles, or vessels that are used or intended for use to transport, or in any manner to facilitate the transportation of, visual or printed matter in violation of RCW 9.68A.050 or 9.68A.060, but:

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(b) No property is subject to forfeiture under this section by reason of any act or omission established by the owner of the property to have been committed or omitted without the owner's knowledge or consent;

(c) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(d) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest.

(3) All personal property, moneys, negotiable instruments, securities, or other tangible or intangible property furnished or intended to be furnished by any person in exchange for visual or printed matter depicting a minor engaged in sexually explicit conduct, or constituting proceeds traceable to any violation of this chapter.

(4) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(5) In the event of seizure under subsection (4) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the item seized shall be deemed forfeited.

(7) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of seized items within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the seized items. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession thereof of the seized items.

(8) If property is sought to be forfeited on the ground that it constitutes proceeds traceable to a violation of this chapter, the seizing law enforcement agency must prove by a preponderance of the evidence that the property constitutes proceeds traceable to a violation of this chapter.

(9) When property is forfeited under this chapter the seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release the property to that agency for the exclusive use of enforcing this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds and all moneys forfeited under this chapter shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Fifty percent of the money remaining after payment of these expenses shall be deposited in the criminal justice training account established under RCW 43.101.210 which shall be appropriated by law to the Washington state criminal justice training commission and fifty percent shall be deposited in the general fund of the state, county, or city of the seizing law enforcement agency; or

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law. [1984 c 262 § 11.]

9.68A.130 Recovery of costs of suit by minor. A minor prevailing in a civil action arising from violation of this chapter is entitled to recover the costs of the suit,

including an award of reasonable attorneys' fees. [1984 c 262 § 12.]

9.68A.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.68A.910 Severability—1984 c 262. 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 262 § 15.]

Chapter 9.91 MISCELLANEOUS CRIMES

Sections

9.91.025 Unlawful bus conduct.

9.91.025 Unlawful bus conduct. (1) A person is guilty of unlawful bus conduct if while on or in a municipal transit vehicle as defined by RCW 46.04.355 and with knowledge that such conduct is prohibited, he or she:

(a) Smokes or carries a lighted or smoldering pipe, cigar, or cigarette; or

(b) Discards litter other than in designated receptacles; or

(c) Plays any radio, recorder, or other sound-producing equipment except that nothing herein shall prohibit the use of such equipment when connected to earphones that limit the sound to individual listeners or the use of a communication device by an employee of the owner or operator of the municipal transit vehicle; or

(d) Spits or expectorates; or

(e) Carries any flammable liquid, explosive, acid, or other article or material likely to cause harm to others except that nothing herein shall prevent a person from carrying a cigarette, cigar, or pipe lighter or carrying a firearm or ammunition in a way that is not otherwise prohibited by law; or

(f) Intentionally disturbs others by engaging in loud or unruly behavior.

(2) Unlawful bus conduct is a misdemeanor. [1984 c 167 § 1.]

Chapter 9.92 PUNISHMENT

Sections

9.92.150 Reduction for good behavior.
9.92.900 RCW 9.92.050 through 9.92.090 inapplicable to felonies committed on or after July 1, 1984.

9.92.150 Reduction for good behavior. The sentencing judge of the superior court and the sentencing judge of courts of limited jurisdictions shall have authority and jurisdiction whereby the sentence of a prisoner, sentenced to imprisonment in their respective county jail,

may be reduced by up to one-third for good behavior. [1984 c 209 § 1; 1983 c 276 § 1; 1937 c 99 § 1; RRS § 10191-1.]

Effective dates—1984 c 209: "Sections 1 through 26 of this act shall take effect on July 1, 1984, and sections 27 through 32 of this act shall take effect June 30, 1984." [1984 c 209 § 33.]

9.92.900 RCW 9.92.050 through 9.92.090 inapplicable to felonies committed on or after July 1, 1984. The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW 9.92.050, 9.92.060, 9.92.062, 9.92.064, 9.92.066, 9.92.070, 9.92.080, and 9.92.090. [1984 c 209 § 2; 1981 c 137 § 31.]

Effective dates—1984 c 209: See note following RCW 9.92.150.
Severability—1981 c 137: See RCW 9.94A.910.

Chapter 9.94A SENTENCING REFORM ACT OF 1981

Sections

9.94A.030 Definitions.
9.94A.060 Sentencing guidelines commission—Membership—Appointments—Terms of office—Expenses and compensation. (Effective July 1, 1985.)
9.94A.090 Plea agreements—Statement to court as to nature and reasons for agreement—Court approval or disapproval—Sentencing judge not bound.
9.94A.110 Sentencing hearing—Time period for holding—Presentence reports and criminal history—Arguments—Record.
9.94A.120 Sentences.
9.94A.130 Power to defer or suspend sentences abolished—Exceptions.
9.94A.150 Leaving correctional facility or release prior to expiration of sentence prohibited—Exceptions.
9.94A.160 Emergency due to inmate population exceeding correctional facility capacity.
9.94A.165 Emergency in county jails population exceeding capacity.
9.94A.190 Terms of more than one year or less than one year—Where served.
9.94A.195 Violation of condition or requirement of sentence—Arrest by community corrections officer—Confinement in county jail.
9.94A.200 Noncompliance with condition or requirement of sentence—Procedure—Penalty.
9.94A.210 Sentence within standard range for offense not appealable—Sentence outside sentence range subject to appeal and review—Procedure—Grounds for reversal—Written opinions.
9.94A.220 Discharge upon completion of sentence—Certificate of discharge—Counseling after discharge.
9.94A.270 Probationer assessments.
9.94A.310 Table 1—Sentencing grid.
9.94A.320 Table 2—Crimes included within each seriousness level.
9.94A.330 Table 3—Offender score matrix.
9.94A.360 Offender score.
9.94A.370 Presumptive sentence.
9.94A.380 Alternatives to total confinement.
9.94A.383 Community supervision.
9.94A.386 Fines.
9.94A.390 Departures from the guidelines.
9.94A.400 Consecutive/concurrent sentences.
9.94A.410 Anticipatory offenses.
9.94A.900 Repealed.

9.94A.030 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(4) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5).

(5) "Confinement" means total or partial confinement as defined in this section.

(6) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW.

(7) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(8) (a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" includes a defendant's convictions or pleas of guilty in juvenile court if: (i) The guilty plea or conviction was for an offense which is a felony and is criminal history as defined in RCW 13.40.020(6)(a); and (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) the defendant had not reached his or her twenty-third birthday at the time the offense for which he or she is being sentenced was committed.

(9) "Department" means the department of corrections.

(10) "Determinant sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a fine or restitution. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinant sentence.

(11) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(12) "First-time offender" means any person convicted of a felony not classified as a violent offense under this chapter, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(13) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(14) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, for a substantial portion of each day with the balance of the day spent in the community.

(15) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(16) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(17) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(18) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, and vehicular homicide;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in subsection (18)(a) of this section; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under subsection (18)(a) or (b) of this section. [1984 c 209 § 3; 1983 c 164 § 9; 1983 c 163 § 1; 1982 c 192 § 1; 1981 c 137 § 3.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 163: See note following RCW 9.94A.120.

9.94A.060 Sentencing guidelines commission—Membership—Appointments—Terms of office—Expenses and compensation. (Effective July 1, 1985.)

(1) The commission consists of fifteen voting members, one of whom the governor shall designate as chairperson.

With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, subject to confirmation by the senate.

(2) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management, as an ex officio member;

(c) Until July 1, 1988, the chairman of the board of prison terms and paroles, as an ex officio member, and thereafter the chairman of the clemency and pardons board, as an ex officio member;

(d) Two prosecuting attorneys;

(e) Two attorneys with particular expertise in defense work;

(f) Four persons who are superior court judges;

(g) One person who is the chief law enforcement officer of a county or city;

(h) Three members of the public who are not and have never been prosecutors, attorneys, judges, or law enforcement officers.

In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the attorney members, of the association of superior court judges in respect to the members who are judges, and of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer.

(3) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed. However, the governor shall stagger the terms by appointing four of the initial members for terms of one year, four for terms of two years, and four for terms of three years.

(4) The speaker of the house of representatives and the president of the senate may each appoint two non-voting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(5) The members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03-.050 and 43.03.060. Legislative members shall be reimbursed by their respective houses as provided under RCW 44.04.120, as now existing or hereafter amended. Members shall be compensated in accordance with RCW 43.03.250. [1984 c 287 § 10; 1981 c 137 § 6.]

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

9.94A.090 Plea agreements—Statement to court as to nature and reasons for agreement—Court approval or disapproval—Sentencing judge not bound. (1)

If a plea agreement has been reached by the prosecutor and the defendant pursuant to RCW 9.94A.080, they shall at the time of the defendant's plea state to the court, on the record, the nature of the agreement and

the reasons for the agreement. The court, at the time of the plea, shall determine if the agreement is consistent with the interests of justice and with the prosecuting standards. If the court determines it is not consistent with the interests of justice and with the prosecuting standards, the court shall, on the record, inform the defendant and the prosecutor that they are not bound by the agreement and that the defendant may withdraw the defendant's plea of guilty, if one has been made, and enter a plea of not guilty.

(2) The sentencing judge is not bound by any recommendations contained in an allowed plea agreement and the defendant shall be so informed at the time of plea. [1984 c 209 § 4; 1981 c 137 § 9.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.110 Sentencing hearing—Time period for holding—Presentence reports and criminal history—Arguments—Record.

Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing. The court shall consider the presentence reports, if any, and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim or a representative of the victim, and an investigative law enforcement officer as to the sentence to be imposed. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. [1984 c 209 § 5; 1981 c 137 § 11.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.120 Sentences. When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2) and (5) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender, other than a person convicted of a violation of chapter 9A.44 RCW or RCW 9A.64.020, the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer; or

(f) Pay a fine, make restitution, and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, restitution, a term of community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7) (a) When an offender is convicted of any violation of chapter 9A.44 RCW or RCW 9A.64.020 except RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions of chapter 9A.44 RCW, RCW 9A.64.020, or any other felony sexual offenses in this or any other

state, the sentencing court on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

After receipt of the reports, the court shall then determine whether the offender and the community will benefit from use of this special sexual offender sentencing alternative. If the court determines that both the offender and the community will benefit from use of this provision, the court shall then impose a sentence within the sentence range and, if this sentence is less than six years of confinement, the court may suspend the execution of the sentence and place the offender on community supervision for up to two years. As a condition of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;

(iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;

(iv) Report as directed to the court and a community corrections officer;

(v) Pay a fine, make restitution, accomplish some community service work, or any combination thereof; or

(vi) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

If the offender violates these sentence conditions the court may revoke the suspension and order execution of the sentence. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(b) When an offender is convicted of any felony sexual offense and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of the department of social and health services at the Eastern State Hospital or the Western State Hospital for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of the department of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement

imposed be served in the sexual offender treatment programs at Western State Hospital or Eastern State Hospital, as determined by the secretary of the department of social and health services. The offender shall be transferred to the state pending placement in the treatment program.

If the offender does not comply with the conditions of the treatment program, the secretary of the department of social and health services may refer the matter to the sentencing court for determination as to whether the offender shall be transferred to the department of corrections to serve the balance of his term of confinement.

If the offender successfully completes the treatment program before the expiration of his term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

(i) Devote time to a specific employment or occupation;

(ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer of any change in the offender's address or employment;

(iii) Report as directed to the court and a community corrections officer;

(iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

(8) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(9) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c) to contribute to a county or interlocal drug fund, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

(10) Except as provided under RCW 9.94A.140(1), a court may not impose a sentence providing for a term of confinement or community supervision which exceeds the statutory maximum for the crime as provided in RCW 9A.20.020.

(11) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department or such person as the secretary may designate and shall follow implicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

(12) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(13) A departure from the standards in RCW 9.94A.400(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210(2) through (6). [1984 c 209 § 6; 1983 c 163 § 2; 1982 c 192 § 4; 1981 c 137 § 12.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 163: "Sections 1 through 5 of this act shall take effect on July 1, 1984." [1983 c 163 § 7.]

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.130 Power to defer or suspend sentences abolished—Exceptions. The power to defer or suspend the imposition or execution of sentence is hereby abolished in respect to sentences prescribed for felonies committed after June 30, 1984, except for offenders sentenced under RCW 9.94A.120(7)(a), the special sexual offender sentencing alternative, whose sentence may be suspended. [1984 c 209 § 7; 1981 c 137 § 13.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.150 Leaving correctional facility or release prior to expiration of sentence prohibited—Exceptions. No person serving a sentence imposed pursuant to this chapter shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) The terms of the sentence may be reduced by earned early release time in accordance with procedures developed and promulgated by the department. The earned early release time shall be for good behavior and good performance, as determined by the department. In no case shall the aggregate earned early release time exceed one-third of the sentence;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(4) If the sentence of confinement is in excess of twelve months but not in excess of three years, no more than the final three months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community. If the sentence of confinement is in excess of three years, no more than the final six months of the sentence may be served in such partial confinement;

(5) The governor may pardon any offender;

(6) The department of corrections may release an offender from confinement any time within ten days before a release date calculated under this section; and

(7) An offender may leave a correctional facility prior to completion of his sentence if the sentence has been reduced as provided in RCW 9.94A.160. [1984 c 209 § 8; 1982 c 192 § 6; 1981 c 137 § 15.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.160 Emergency due to inmate population exceeding correctional facility capacity. If the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more of the following:

(1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating the standard ranges and other standards. The commission may adopt any revision or amendment to the standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.04 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the revision or amendment takes effect. Failure of the legislature to act shall be deemed as approval of the revision or amendment;

(2) If the emergency occurs prior to July 1, 1988, call the board of prison terms and paroles into an emergency meeting for the purpose of evaluating its guidelines and procedures for release of prisoners under its jurisdiction. The board shall adopt guidelines for the reduction of inmate population to be used in the event the governor calls the board into an emergency meeting under this section. The board shall not, under this subsection, reduce the prison term of an inmate serving a mandatory minimum term under RCW 9.95.040, an inmate confined for treason, an inmate confined for any violent offense as defined by RCW 9.94A.030, or an inmate who has been found to be a sexual psychopath under chapter 71.06 RCW. In establishing these guidelines, the board shall give priority to sentence reductions for inmates confined for nonviolent offenses, inmates who are within six months of a scheduled parole, and inmates with the best records of conduct during confinement. The board shall consider the public safety, the detrimental effect of overcrowding upon inmate rehabilitation, and the best allocation of limited correctional facility resources.

Guidelines adopted under this subsection shall be submitted to the senate institutions and house of representatives social and health services committees for their review. This subsection does not require the board to reduce inmate population to or below any certain number. The board may also take any other action authorized by law to modify the terms of prisoners under its jurisdiction;

(3) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency. [1984 c 246 § 1; 1983 c 163 § 4; 1981 c 137 § 16.]

Severability—1984 c 246: "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 246 § 12.]

Effective date—1983 c 163: See note following RCW 9.94A.120.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.165 Emergency in county jails population exceeding capacity. If the governor finds that an emergency exists in that the populations of county jails exceed their reasonable, maximum capacity in a significant manner as a result of increases in the sentenced felon population due to implementation of chapter 9.94A RCW, the governor may do any one or more of the following:

(1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating the standard ranges and other standards. The commission may adopt any revision or amendment to the standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.04 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the revision or amendment takes effect. Failure of the legislature to act shall be deemed as approval of the revision or amendment. The commission shall also analyze how alternatives to total confinement are being provided and used and may recommend other emergency measures that may relieve the overcrowding.

(2) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency. [1984 c 209 § 9.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

9.94A.190 Terms of more than one year or less than one year—Where served. A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state. A sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county. [1984 c 209 § 10; 1981 c 137 § 19.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.195 Violation of condition or requirement of sentence—Arrest by community corrections officer—Confinement in county jail. If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, an offender may be required to submit to a search and seizure of the offender's person, residence, automobile, or other personal property. A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be reported by the community corrections officer, with recommendations, to the court.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court, pursuant to a written order. [1984 c 209 § 11.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

9.94A.200 Noncompliance with condition or requirement of sentence—Procedure—Penalty. (1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the requirements or conditions of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the non-compliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) If the court finds that the violation has occurred, it may order the offender to be confined for a period not to exceed sixty days for each violation, and may convert a term of partial confinement to total confinement. Any time served in confinement awaiting a hearing on non-compliance shall be credited against any confinement order by the court; and

(c) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of fines or other monetary payments and regarding community service obligations.

(3) Nothing in this section prohibits the filing of escape charges if appropriate. [1984 c 209 § 12; 1981 c 137 § 20.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.210 Sentence within standard range for offense not appealable—Sentence outside sentence range subject to appeal and review—Procedure—Grounds for reversal—Written opinions. (1) A sentence within the standard range for the offense shall not be appealed. For purposes of this section, a sentence imposed on a first offender under RCW 9.94A.120(5) shall also be deemed to be within the standard range for the offense and shall not be appealed.

(2) A sentence outside the sentence range for the offense is subject to appeal by the defendant or the state. The appeal shall be to the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing judge are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing judges and others in implementing this chapter and in developing a common law of sentencing within the state. [1984 c 209 § 13; 1982 c 192 § 7; 1981 c 137 § 21.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.220 Discharge upon completion of sentence—Certificate of discharge—Counseling after discharge. When an offender has completed the requirements of the sentence, the secretary of the department or his designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge. The discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for

up to one year following the release from custody. [1984 c 209 § 14; 1981 c 137 § 22.]

Effective dates—1984 c 209: See note following RCW 9.92.150.
 Effective date—1981 c 137: See RCW 9.94A.905.

9.94A.270 Probationer assessments. (1) Whenever a punishment imposed under this chapter requires community supervision services to be provided, the sentencing court shall require that the offender pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the probation and which shall be considered as payment or part payment of the cost of providing probation supervision to the probationer. The court may exempt a person from the payment of all or any part of the assessment based upon any of the following factors:

- (a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.
- (b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.
- (c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.
- (d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the court.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the state general fund.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982. [1984 c 209 § 15; 1982 c 207 § 2.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

9.94A.310 Table 1—Sentencing grid.

TABLE 1
Sentencing Grid

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XIV	Life Sentence without Parole/Death Penalty									
XIII	23y4m 240– 320	24y4m 250– 333	25y4m 261– 347	26y4m 271– 361	27y4m 281– 374	28y4m 291– 388	30y4m 312– 416	32y10m 338– 450	36y 370– 493	40y 411– 548
XII	12y 123– 164	13y 134– 178	14y 144– 192	15y 154– 205	16y 165– 219	17y 175– 233	19y 195– 260	21y 216– 288	25y 257– 342	29y 298– 397
XI	6y 62– 82	6y9m 69– 92	7y6m 77– 102	8y3m 85– 113	9y 93– 123	9y9m 100– 133	12y6m 129– 171	13y6m 139– 185	15y6m 159– 212	17y6m 180– 240
X	5y 51– 68	5y6m 57– 75	6y 62– 82	6y6m 67– 89	7y 72– 96	7y6m 77– 102	9y6m 98– 130	10y6m 108– 144	12y6m 129– 171	14y6m 149– 198
IX	3y 31– 41	3y6m 36– 48	4y 41– 54	4y6m 46– 61	5y 51– 68	5y6m 57– 75	7y6m 77– 102	8y6m 87– 116	10y6m 108– 144	12y6m 129– 171

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
VIII	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144
VII	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116
VI	13m 12+- 14	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y6m 46- 61	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102
V	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y 41- 54	5y 51- 68	6y 62- 82	7y 72- 96
IV	6m 3- 9	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y2m 53- 70	6y2m 63- 84
III	2m 1- 3	5m 3- 8	8m 4- 12	11m 9- 12	14m 12+- 16	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y 51- 68
II	0-90 Days	4m 2- 6	6m 3- 9	8m 4- 12	13m 12+- 14	16m 14- 18	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57
I	0-60 Days	0-90 Days	3m 2- 5	4m 2- 6	5m 3- 8	8m 4- 12	13m 12+- 14	16m 14- 18	20m 17- 22	2y2m 22- 29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

Additional time added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon as defined in this chapter:

- 24 months (Rape 1, Robbery 1, Kidnaping 1)
- 18 months (Burglary 1)
- 12 months (Assault 2, Escape 1, Kidnaping 2, Burglary 2 of a building other than a dwelling, Delivery or Possession of a controlled substance with intent to deliver)

[1984 c 209 § 16; 1983 c 115 § 2.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.320 Table 2—Crimes included within each seriousness level.

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XIV Aggravated Murder 1 (RCW 10.95.020)
- XIII Murder 1 (RCW 9A.32.030)

- XII Murder 2 (RCW 9A.32.050)
- XI Assault 1 (RCW 9A.36.010)
- X Kidnapping 1 (RCW 9A.40.020)
- Rape 1 (RCW 9A.44.040)
- Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))

- Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 and 3 years junior (RCW 69.50.406)
- IX Robbery 1 (RCW 9A.56.200)
Manslaughter 1 (RCW 9A.32.060)
Statutory Rape 1 (RCW 9A.44.070)
Employing, using, or permitting minor to engage in sexually explicit conduct for commercial use *(RCW 9.68A.020)
Explosive devices prohibited (RCW 70.74.180)
Endangering life and property by explosives with threat to human being (RCW 70.74.270)
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- VIII Arson 1 (RCW 9A.48.020)
Rape 2 (RCW 9A.44.050)
Promoting Prostitution 1 (RCW 9A.88.070)
Selling heroin for profit (RCW 69.50.410)
- VII Burglary 1 (RCW 9A.52.020)
Vehicular Homicide (RCW 46.61.520)
Introducing Contraband 1 (RCW 9A.76.140)
Statutory Rape 2 (RCW 9A.44.080)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Sending, bringing into the state, possessing, publishing, printing, etc., obscene matter involving minor engaged in sexually explicit conduct **(RCW 9.68A.030)
- VI Bribery (RCW 9A.68.010)
Manslaughter 2 (RCW 9A.32.070)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
Incest 1 (RCW 9A.64.020(1))
Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
Manufacture, deliver, or possess with intent to deliver heroin or narcotics from Schedule I or II (RCW 69.50.401(a)(1)(i))
- V Rape 3 (RCW 9A.44.060)
Kidnapping 2 (RCW 9A.40.030)
Extortion 1 (RCW 9A.56.120)
Incest 2 (RCW 9A.64.020(2))
Perjury 1 (RCW 9A.72.020)
Rendering Criminal Assistance 1 (RCW 9A.76.070)
- IV Robbery 2 (RCW 9A.56.210)
Assault 2 (RCW 9A.36.020)
Escape 1 (RCW 9A.76.110)
Arson 2 (RCW 9A.48.030)
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
Malicious Harassment (RCW 9A.36.080)
Wilful Failure to Return from Furlough (RCW 72.66.060)
Hit and Run — Injury Accident (RCW 46.52.020(4))
Vehicular Assault (RCW 46.61.522)
Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana) (RCW 69.50.401(a)(1)(ii) through (iv))
- III Statutory Rape 3 (RCW 9A.44.090)
Extortion 2 (RCW 9A.56.130)
Unlawful Imprisonment (RCW 9A.40.040)
Assault 3 (RCW 9A.36.030)
Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
Promoting Prostitution 2 (RCW 9A.88.080)
Introducing Contraband 2 (RCW 9A.76.150)
Communicating with a Minor for Immoral Purposes *** (RCW 9A.44.110)
Escape 2 (RCW 9A.76.120)
Perjury 2 (RCW 9A.72.030)
Intimidating a Public Servant (RCW 9A.76.180)
Tampering with a Witness (RCW 9A.72.120)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- II Malicious Mischief 1 (RCW 9A.48.070)
Possession of Stolen Property 1 (RCW 9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Livestock (RCW 9A.56.080)
Welfare Fraud (RCW 74.08.331)
Burglary 2 (RCW 9A.52.030)
Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- I Theft 2 (RCW 9A.56.040)
Possession of Stolen Property 2 (RCW 9A.56.160)
Forgery (RCW 9A.60.020)
Auto Theft (Taking and Riding) (RCW 9A.56.070)
Vehicle Prowl 1 (RCW 9A.52.095)
Eluding a Police Vehicle (RCW 46.61.024)
Malicious Mischief 2 (RCW 9A.48.080)
Reckless Burning 1 (RCW 9A.48.040)

Unlawful Issuance of Bank Checks (RCW 9A.56.060)
 False Verification for Welfare (RCW 74.08.055)
 Forged prescription (RCW 69.41.020)
 Possess controlled substance that is a narcotic from Schedule III, IV, or V or non-narcotic from Schedule I-V (RCW 69.50.401(d))

[1984 c 209 § 17; 1983 c 115 § 3.]

Reviser's note: *(1) RCW 9.68A.020 was repealed by 1984 c 262 § 13(2).

***(2) RCW 9.68A.030 was repealed by 1984 c 262 § 13(3); for later enactment, see RCW 9.68A.060.

****(3) RCW 9A.44.110 was repealed by 1984 c 262 § 13(5); for later enactment, see RCW 9.68A.090.

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.330 Table 3—Offender score matrix.

**TABLE 3
 OFFENDER SCORE MATRIX**

Current Offenses	Prior Adult Convictions				
	Serious Violent	Burglary 1	Other Violent	Vehicular Homicide	Escape
Serious Violent	3	2	2	2	1
Burglary 1	2	2	2	2	1
Other Violent	2	2	2	2	1
Vehicular Homicide	0	0	0	2	0
Escape	0	0	0	0	1
Burglary 2	1	2	1	1	1
Other Non-Violent	1	1	1	1	1
Drug	1	1	1	1	1

Current Offenses	Prior Juvenile Convictions				
	Burglary 2	Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1	1	0	1	1
Burglary 1	2	1	0	1	1
Other Violent	1	1	0	1	1
Vehicular Homicide	0	1	1	0	0
Escape	0	0	0	0	0
Burglary 2	2	1	0	1	1
Other Non-Violent	1	1	0	1	1
Drug	1	1	0	1	2

Current Offenses	Prior Juvenile Convictions				
	Serious Violent	Burglary 1	Other Violent	Vehicular Homicide	Escape
Serious Violent	3	2	2	2	1/2
Burglary 1	2	2	2	2	1/2
Other Violent	2	2	2	2	1/2

Current Offenses	Serious Violent	Burglary 1	Other Violent	Vehicular Homicide	Escape
Vehicular Homicide	0	0	0	2	0
Escape	0	0	0	0	1/2
Burglary 2	1/2	2	1/2	1/2	1/2
Other Non-Violent	1/2	1/2	1/2	1/2	1/2
Drug	1/2	1/2	1/2	1/2	1/2

Current Offenses	Burglary 2	Felony Traffic	Serious Traffic	Other Non-Violent	Drug
Serious Violent	1/2	1/2	0	1/2	1/2
Burglary 1	1	1/2	0	1/2	1/2
Other Violent	1/2	1/2	0	1/2	1/2
Vehicular Homicide	0	1/2	1/2	0	0
Escape	0	0	0	0	0
Burglary 2	1	1/2	0	1/2	1/2
Other Non-Violent	1/2	1/2	0	1/2	1/2
Drug	1/2	1/2	0	1/2	1

Definitions: Serious Violent: Murder 1, Murder 2, Assault 1, Kidnapping 1, Rape 1
 Escape: Escape 1, Escape 2, Willful Failure to Return From Work Release or Furlough
 Serious Traffic: Driving While Intoxicated, Actual Physical Control, Reckless Driving, Hit-and-Run
 Felony Traffic: Felony Hit-and-Run, Vehicular Assault, Attempting to Elude a Police Officer
 Drug: All felony violations of chapter 69.50 RCW except possession of a controlled substance

[1984 c 209 § 18; 1983 c 115 § 4.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.360 Offender score. The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are summarized in Table 3, RCW 9.94A.330.

The offender score is computed in the following way:

(1) Include juvenile felony convictions if the offender was 15 or older at the time the offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(2) If the present conviction is for Murder 1 or 2, Assault 1, Kidnapping 1, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(3) If the present conviction is for Burglary 1, count priors as in subsection (5) of this section; however count two points for each prior adult Burglary 2 conviction, and one point for each prior juvenile Burglary 2 conviction.

(4) If the present conviction is for Vehicular Homicide, only count the following crimes as part of the offender score: Vehicular Homicide, Vehicular Assault, Felony Hit and Run (RCW 46.52.020(4)), Hit and Run (RCW 46.52.020(5)), Driving While Intoxicated (RCW 46.61.502), Actual Physical Control (RCW 46.61.504), Reckless Driving (RCW 46.61.500), Attempting to Elude a Police Officer (RCW 46.61.500). Count two points for each adult or juvenile Vehicular Homicide conviction, one point for each other adult felony traffic or serious traffic conviction, and 1/2 point for each other juvenile felony traffic or serious traffic conviction.

(5) If the present conviction is for a violent offense and not covered in subsections (2), (3), (4), or (8) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(6) If the present conviction is for escape (Escape 1, RCW 9A.76.110; Escape 2, RCW 9A.76.120; Willful Failure to Return from Furlough, RCW 72.66.060; and Willful Failure to Return from Work Release, RCW 72.65.070), count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(7) If the present conviction is for Burglary 2, count priors as in subsection (9) of this section; however count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 conviction, and one point for each juvenile prior Burglary 2 conviction.

(8) If the present conviction is for a violation of chapter 69.50 RCW, except for possession of a controlled substance (RCW 69.50.401(d)), count two points for each adult prior felony drug conviction (chapter 69.50 RCW, except RCW 69.50.401(d)), and one point for each juvenile drug conviction. All other adult and juvenile felonies are scored as in subsection (5) of this section if the current drug conviction is violent, or as in subsection (9) of this section if the current drug conviction is nonviolent.

(9) If the present conviction is for a nonviolent offense and not covered by subsection (6), (7), or (8) of this section, count one point for each prior adult felony conviction and one point for each prior juvenile violent felony conviction and 1/2 point for each prior juvenile nonviolent felony.

(10) For all offender scores, the fractional totals shall be rounded down to the nearest whole number.

(11) In the case of multiple prior convictions for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. The conviction for the offense that yields the highest offender score is used.

(12) Class A prior felony convictions are always included in the offender score. Class B prior felony convictions are not included if the offender has spent ten years in the community and has not been convicted of any felonies since the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), if any, or entry of judgment and sentence. Class C prior felony convictions and serious traffic convictions as defined in RCW 9.94A.330 are not included if the offender has spent five years in the community and has not been convicted of any felonies since the last date of release from confinement pursuant to a felony conviction (including full-time residential treatment), if any, or entry of judgment and sentence. This subsection applies to both adult and juvenile prior convictions.

The designation of out-of-state convictions shall be covered by the offense definitions and sentences provided by Washington law.

The offender score is the sum of points accrued under subsections (1) through (12) of this section. [1984 c 209 § 19; 1983 c 115 § 7.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.370 Presumptive sentence. The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The additional time for deadly weapon findings shall be added to the entire presumptive sentence range. The court may impose any sentence within the range that it deems appropriate. All presumptive sentence ranges are expressed in terms of total confinement.

In determining any sentence, the trial court may use no more information than is admitted by the plea agreement, and admitted to or acknowledged at the time of sentencing. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The real facts shall be deemed proven at the evidentiary hearing by a preponderance of the evidence. Real facts that establish elements of a higher crime, a more serious crime, or additional crimes cannot be used to go outside the presumptive sentence range except upon stipulation. [1984 c 209 § 20; 1983 c 115 § 8.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.380 Alternatives to total confinement. For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used.

These alternatives include the following sentence conditions that the court may order as substitutes for total confinement: (1) One day of partial confinement or eight hours of community service may be substituted for one day of total confinement; (2) the community service conversion is limited to two hundred forty hours or

thirty days. The conversion of total confinement to partial confinement may be applied to all sentences of one year or less, including those for violent offenses. [1984 c 209 § 21; 1983 c 115 § 9.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.383 Community supervision. On all sentences of confinement for one year or less the court may impose up to one year of community supervision. For confinement sentences, unless otherwise ordered by the court, the period of community supervision begins at the date of release from confinement. For nonconfinement sentences, the period of community supervision begins at the date of entry of the judgment and sentence. [1984 c 209 § 22.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

9.94A.386 Fines. On all sentences under this chapter the court may impose fines according to the following ranges:

Class A felonies	\$0 – 50,000
Class B felonies	\$0 – 20,000
Class C felonies	\$0 – 10,000

[1984 c 209 § 23.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

9.94A.390 Departures from the guidelines. If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence:

Mitigating Circumstances

(1) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(2) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(3) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(4) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(5) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(6) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(7) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that

is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

Aggravating Circumstances

(1) The defendant's conduct during the commission of the offense manifested deliberate cruelty to the victim.

(2) The defendant knew or should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(3) The offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(a) The offense involved multiple victims or multiple incidents per victim;

(b) The offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(c) The offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(d) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the offense.

(4) The offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify an offense as a major VUCSA:

(a) The offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(b) The offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(c) The offense involved the manufacture of controlled substances for use by other parties; or

(d) The offender possessed a firearm during the commission of the offense; or

(e) The circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(f) The offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(g) The offender used his or her position or status to facilitate the commission of the offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(h) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.400.

The above considerations are illustrative only and are not intended to be exclusive reasons for exceptional sentences. [1984 c 209 § 24; 1983 c 115 § 10.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.400 Consecutive/concurrent sentences. (1) (a) Except as provided in (b) of this subsection, whenever a person is convicted of two or more offenses, the sentence range for each offense shall be determined by using all other current and prior convictions as criminal history. All sentences so determined shall be served concurrently. Separate crimes encompassing the same criminal conduct shall be counted as one crime in determining criminal history.

(b) Whenever a person is convicted of three or more serious violent offenses, as defined in RCW 9.94A.330, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions as criminal history and the sentence range for other serious violent offenses shall be determined by using a criminal history score of zero. The sentence range for any remaining offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of imprisonment, the latter term shall not begin until expiration of all prior terms.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run consecutively with felony sentences previously imposed by any court in this or another state or by a federal court, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, this sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. [1984 c 209 § 25; 1983 c 115 § 11.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.410 Anticipatory offenses. For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the crime, and multiplying the range by 75 percent. [1984 c 209 § 26; 1983 c 115 § 12.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Effective date—1983 c 115: See RCW 9.94A.300.

9.94A.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.95

PRISON TERMS, PAROLES, AND PROBATION

Sections

9.95.028	Statement of prosecuting attorney provided to department, when.
9.95.030	Facts to be furnished board of prison terms and paroles.
9.95.032	Statement of prosecuting attorney—Delivery of statement.
9.95.210	Conditions may be imposed on probation.

9.95.028 Statement of prosecuting attorney provided to department, when. It is the intent of the legislature to expedite the inmate classification process of the department of corrections. The statement of the prosecuting attorney regarding a convicted criminal defendant should be prepared and made available to the department at the time the convicted person is placed in the custody of the department. [1984 c 114 § 1.]

9.95.030 Facts to be furnished board of prison terms and paroles. At the time the convicted person is transported to the custody of the department of corrections, the board of prison terms and paroles shall obtain from the sentencing judge and the prosecuting attorney, a statement of all the facts concerning the convicted person's crime and any other information of which they may be possessed relative to him, and the sentencing judge and the prosecuting attorney shall furnish the board of prison terms and paroles with such information. The sentencing judge and prosecuting attorney shall indicate to the board of prison terms and paroles, for its guidance, what, in their judgment, should be the duration of the convicted person's imprisonment. [1984 c 114 § 2; 1955 c 133 § 4. Prior: 1947 c 92 § 1, part; 1935 c 114 § 2, part; Rem. Supp. 1947 § 10249-2, part.]

9.95.032 Statement of prosecuting attorney—Delivery of statement. Such statement shall be signed by the prosecuting attorney and approved by the judge by whom the judgment was rendered and shall be delivered to the sheriff, traveling guard, department of corrections personnel, or other officer executing the sentence, and a copy of such statement shall be furnished to the defendant or his attorney. Such officer shall deliver the statement, at the time of the prisoner's commitment, to the superintendent of the institution to which such prisoner has been sentenced and committed. The superintendent shall make such statement available for use by the board of prison terms and paroles. [1984 c 114 § 3; 1929 c 158 § 2; RRS § 10255.]

9.95.210 Conditions may be imposed on probation. In granting probation, the court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

In the order granting probation and as a condition thereof, the court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the court shall require the payment of the penalty assessment required by RCW 7.68.035. The court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (1) to comply with any order of the court for the payment of family support, (2) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement, (3) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, and (4) to contribute to a county or interlocal drug fund, and may require bonds for the faithful observance of any and all conditions imposed in the probation. The court shall order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow implicitly the instructions of the secretary. If the probationer has been ordered to make restitution, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of his probation. For defendants found guilty in justice court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located. [1984 c 46 § 1; 1983 c 156 § 4; 1982 1st ex.s. c 47 § 10; 1982 1st ex.s. c 8 § 5; 1981 c 136 § 42; 1980 c 19 § 1. Prior: 1979 c 141 § 7; 1979 c 29 § 2; 1969 c 29 § 1; 1967 c 200 § 8; 1967 c 134 § 16; 1957 c 227 § 4; prior: 1949 c 77 § 1; 1939 c 125 § 1, part; Rem. Supp. 1949 § 10249-5b.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Intent—Reports—1982 1st ex.s. c 8: See note following RCW 7.68.035.

Effective date—1981 c 136: See RCW 72.09.900.

Severability—1939 c 125: See note following RCW 9.95.200.

Restitution

alternative to fine: RCW 9A.20.030.

condition to suspending sentence: RCW 9.92.060.

Termination of suspended sentence, restoration of civil rights: RCW 9.92.066.

Violations of probation conditions, rearrest, detention: RCW 72.04A.090.

Title 9A

WASHINGTON CRIMINAL CODE

(See also Crimes and Punishments, Title 9 RCW)

Chapters

- 9A.04 Preliminary article.
- 9A.20 Classification of crimes.
- 9A.36 Assault and other crimes involving physical harm.
- 9A.40 Kidnapping, unlawful imprisonment, and custodial interference.
- 9A.44 Sexual offenses.
- 9A.48 Arson, reckless burning, and malicious mischief.
- 9A.52 Burglary and trespass.
- 9A.56 Theft and robbery.
- 9A.82 Racketeering. (Effective July 1, 1985.)

Chapter 9A.04

PRELIMINARY ARTICLE

Sections

- 9A.04.080 Limitation of actions. (Effective July 1, 1985.)

9A.04.080 Limitation of actions. (Effective July 1, 1985.) Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, and arson where death does not ensue, within ten years after their commission; for violations of RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b), within five years after their commission; for violations of RCW 9A.82.060 or 9A.82.080, within six years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: *Provided*, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, five, and ten years respectively: *And further provided*, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside. [1984 c 270 § 18; 1982 c 129 § 1; 1981 c 203 § 1; 1975 1st ex.s. c 260 § 9A.04.080.]

Severability—Effective date—1984 c 270: See RCW 9A.82.900 and 9A.82.901.

Severability—1982 c 129: "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 129 § 11.]

Chapter 9A.20 CLASSIFICATION OF CRIMES

Sections

9A.20.010 Classification and designation of crimes.

9A.20.010 Classification and designation of crimes.

(1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

- (i) Class A felony; or
- (ii) Class B felony; or
- (iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety days, or by both such fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors. [1984 c 258 § 808; 1975 1st ex.s. c 260 § 9A.20.010.]

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

Chapter 9A.36 ASSAULT AND OTHER CRIMES INVOLVING PHYSICAL HARM

Sections

9A.36.040 Simple assault.
9A.36.080 Malicious harassment.

9A.36.040 Simple assault. (1) Every person who shall commit an assault or an assault and battery not amounting to assault in either the first, second, or third degree shall be guilty of simple assault.

(2) Simple assault is a gross misdemeanor.

(3) Every person convicted of three offenses under this section against a family or household member as defined in RCW 10.99.020 is guilty of a class C felony. [1984 c 263 § 18; 1975 1st ex.s. c 260 § 9A.36.040.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Domestic violence prevention: Chapter 26.50 RCW.

9A.36.080 Malicious harassment. (1) A person is guilty of malicious harassment if he maliciously and with the intent to intimidate or harass another person because of that person's race, color, religion, ancestry, national origin, or mental, physical, or sensory handicap:

- (a) Causes physical injury to another person; or

(b) By words or conduct places another person in reasonable fear of harm to his person or property or harm to the person or property of a third person: *Provided, however,* That it shall not constitute malicious harassment for a person to speak or act in a critical, insulting, or deprecatory way so long as his or her words or actions do not constitute a threat of harm to the body or property of another person; or

(c) Causes physical damage to or destruction of the property of another person.

(2) Malicious harassment is a class C felony.

(3) In addition to the criminal penalty provided in subsection (2) of this section, there is hereby created a civil cause of action for malicious harassment. A person may be liable to the victim of malicious harassment for actual damages and punitive damages of up to ten thousand dollars.

(4) The penalties provided in this section for malicious harassment do not preclude the victims from seeking any other remedies otherwise available under law. [1984 c 268 § 1; 1981 c 267 § 1.]

Chapter 9A.40 KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

Sections

9A.40.050 Repealed.
9A.40.060 Custodial interference in the first degree.
9A.40.070 Custodial interference in the second degree.
9A.40.080 Custodial interference—Assessment of costs—Defense—Consent defense, restricted.

9A.40.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9A.40.060 Custodial interference in the first degree.

(1) A relative of a child under the age of eighteen or of an incompetent person is guilty of custodial interference in the first degree if, with the intent to deny access to the child or incompetent person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the child or incompetent person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person and:

(a) Intends to hold the child or incompetent person permanently or for a protracted period; or

(b) Exposes the child or incompetent person to a substantial risk of illness or physical injury; or

(c) Causes the child or incompetent person to be removed from the state of usual residence; or

(d) Retains, detains, or conceals the child or incompetent person in another state after expiration of any authorized visitation period with intent to intimidate or harass a parent, guardian, institution, agency, or other person having lawful right to physical custody or to prevent a parent, guardian, institution, agency, or other person with lawful right to physical custody from regaining custody.

(2) A parent or other person acting under the directions of the parent is guilty of custodial interference in the first degree if the parent or other person intentionally takes, entices, retains, or conceals a child, under the age of eighteen years and for whom no lawful custody order has been entered by a court of competent jurisdiction, from the other parent with intent to deprive the other parent from access to the child permanently or for a protracted period.

(3) Custodial interference in the first degree is a class C felony. [1984 c 95 § 1.]

Severability—1984 c 95: "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 95 § 8.]

9A.40.070 Custodial interference in the second degree. (1) A relative of a person is guilty of custodial interference in the second degree if, with the intent to deny access to such person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person.

(2) The first conviction of custodial interference in the second degree is a gross misdemeanor. The second or subsequent conviction of custodial interference in the second degree is a class C felony. [1984 c 95 § 2.]

Severability—1984 c 95: See note following RCW 9A.40.060.

9A.40.080 Custodial interference—Assessment of costs—Defense—Consent defense, restricted. (1) Any reasonable expenses incurred in locating or returning a child or incompetent person shall be assessed against a defendant convicted under RCW 9A.40.060 or 9A.40.070.

(2) In any prosecution of custodial interference in the first or second degree, it is a complete defense, if established by the defendant by a preponderance of the evidence, that the defendant's purpose was to protect the child, incompetent person, or himself or herself from imminent physical harm, and that the belief in the existence of the imminent physical harm was reasonable.

(3) Consent of a child less than sixteen years of age or of an incompetent person does not constitute a defense to an action under RCW 9A.40.060 or 9A.40.070. [1984 c 95 § 3.]

Severability—1984 c 95: See note following RCW 9A.40.060.
Child custody, action by relative: RCW 26.09.255.

Chapter 9A.44 SEXUAL OFFENSES

Sections
9A.44.110 Repealed.

9A.44.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9A.48

ARSON, RECKLESS BURNING, AND MALICIOUS MISCHIEF

Sections
9A.48.100 Malicious mischief—"Physical damage" defined.

9A.48.100 Malicious mischief—"Physical damage" defined. For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

(1) "Physical damage", in addition to its ordinary meaning, shall include the total or partial alteration, damage, obliteration, or erasure of records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree. [1984 c 273 § 4; 1981 c 260 § 2. Prior: 1979 ex.s. c 244 § 11; 1979 c 145 § 3; 1977 ex.s. c 174 § 1; 1975 1st ex.s. c 260 § 9A.48.100.]

Effective date—1979 ex.s. c 244: See RCW 9A.44.902.
Action by owner of stolen livestock: RCW 4.24.320.
Computer trespass: RCW 9A.52.110 through 9A.52.130.

Chapter 9A.52 BURGLARY AND TRESPASS

Sections
9A.52.010 Definitions.
9A.52.110 Computer trespass in the first degree.
9A.52.120 Computer trespass in the second degree.
9A.52.130 Computer trespass—Commission of other crime.

9A.52.010 Definitions. The following definitions apply in this chapter:

(1) "Premises" includes any building, dwelling, or any real property;

(2) "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;

(3) "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible. Similarly, a field fenced in any manner is not unimproved and apparently unused land;

(4) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or have been prepared in a formalized manner and are intended for use in a computer;

(5) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data;

(6) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means. [1984 c 273 § 5; 1984 c 49 § 1; 1975 1st ex.s. c 260 § 9A.52.010.]

Reviser's note: This section was amended by 1984 c 49 § 1 and by 1984 c 273 § 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).

9A.52.110 Computer trespass in the first degree. (1) A person is guilty of computer trespass in the first degree if the person, without authorization, intentionally gains access to a computer system or electronic data base of another; and

(a) The access is made with the intent to commit another crime; or

(b) The violation involves a computer or data base maintained by a government agency.

(2) Computer trespass in the first degree is a class C felony. [1984 c 273 § 1.]

9A.52.120 Computer trespass in the second degree.

(1) A person is guilty of computer trespass in the second degree if the person, without authorization, intentionally gains access to a computer system or electronic data base of another under circumstances not constituting the offense in the first degree.

(2) Computer trespass in the second degree is a gross misdemeanor. [1984 c 273 § 2.]

9A.52.130 Computer trespass—Commission of other crime. A person who, in the commission of a computer trespass, commits any other crime may be punished for that other crime as well as for the computer trespass and may be prosecuted for each crime separately. [1984 c 273 § 3.]

Physical damage to computer programs: RCW 9A.48.100.

Chapter 9A.56 THEFT AND ROBBERY

Sections

9A.56.010 Definitions.

9A.56.010 Definitions. The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another; or

(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars. [1984 c 273 § 6; 1975-'76 2nd ex.s. c 38 § 8; 1975 1st ex.s. c 260 § 9A.56.010.]

Effective date—Severability—1975-'76 2nd ex.s. c 38: See notes following RCW 9A.08.020.

Chapter 9A.82

RACKETEERING

(Effective July 1, 1985)

Sections

9A.82.010	Definitions.
9A.82.020	Extortionate extension of credit.
9A.82.030	Advancing money or property to be used for extortionate credit.
9A.82.040	Use of extortionate means to collect extensions of credit.
9A.82.050	Trafficking in stolen property.
9A.82.060	Leading organized crime.
9A.82.070	Influencing outcome of sporting event.
9A.82.080	Use of proceeds of racketeering—Controlling enterprise or realty—Conspiracy or attempt.
9A.82.090	Orders restraining racketeering—When issued.
9A.82.100	Remedies and procedures.
9A.82.110	Antiracketeering revolving funds—State and county.
9A.82.120	Racketeering lien—Authority, procedures.
9A.82.130	Racketeering lien—Trustee of real property.
9A.82.140	Racketeering lien—Procedures after notice.
9A.82.150	Racketeering lien—Conveyance of property by trustee, liability.
9A.82.160	Racketeering lien—Trustee's failure to comply.
9A.82.170	Financial institution records—Inspection and copying—Wrongful disclosure.
9A.82.900	Severability—1984 c 270.
9A.82.901	Effective date—1984 c 270.

9A.82.010 Definitions. Unless the context requires the contrary, the definitions in this section apply throughout this chapter.

(1) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(2) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(3) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(4) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(5) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(6) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(7) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(8) "Dealer in property" means a person who buys and sells property as a business.

(9) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(10) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of to another person.

(11) "Combination" means persons who collaborate in carrying on or furthering the activities or purposes of a criminal syndicate even though the persons may not know each other's identity, or membership in the combination changes from time to time, or one or more members may stand in a wholesaler-retailer or other arm's-length relationship with others as to activities or dealings between or among themselves in an illicit operation.

(12) "Criminal syndicate" means any combination of persons or enterprises engaging, or having the purpose of engaging, in conduct which violates any one or more provisions of any felony statute of this state.

(13) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(14) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(15) "Financial institution" means any bank, trust company, savings and loan association, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(16) "Racketeering" means any act, including any anticipatory or completed offense committed for financial gain, which is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, involving:

- (a) Homicide;
 - (b) Robbery;
 - (c) Kidnapping;
 - (d) Forgery;
 - (e) Theft;
 - (f) Bribery;
 - (g) Gambling;
 - (h) Usury;
 - (i) Extortion;
 - (j) Extortionate extensions of credit;
 - (k) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
 - (l) Trafficking in explosives, weapons, or stolen property;
 - (m) Leading organized crime;
 - (n) Obstructing or hindering criminal investigations or prosecutions;
 - (o) Asserting false claims including, not but limited to, false claims asserted through fraud or arson;
 - (p) False statements or publications concerning land for sale or lease or sale of subdivided lands or sale and mortgaging of unsubdivided lands;
 - (q) Resale of realty with intent to defraud;
 - (r) Fraud in the purchase or sale of securities;
 - (s) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salespersons;
 - (t) A scheme or artifice to defraud;
 - (u) Obscenity;
 - (v) Child pornography;
 - (w) Prostitution; or
 - (x) Arson.
- (17) "Pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after July 1, 1985, and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity.
- (18) "Records" means any book, paper, writing, record, computer program, or other material.
- (19) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.
- (20) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:
- (a) In violation of any one of the following:
 - (i) Chapter 67.16 RCW relating to horse racing;
 - (ii) Chapter 9.46 RCW relating to gambling; or
 - (iii) Chapter 19.52 RCW relating to interest and usury; or
 - (b) In a gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.
- (21) (a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest shall be considered to be located where the real property owned by the trustee is located.

(22) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(23) (a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under subsection (23)(a)(i) or (ii) of this section.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust; or

(iii) A trustee of any indenture of trust under which a bond is issued. [1984 c 270 § 1.]

9A.82.020 Extortionate extension of credit. (1) A person who knowingly makes an extortionate extension of credit is guilty of a class B felony.

(2) In a prosecution under this section, if it is shown that all of the following factors are present in connection with the extension of credit, there is prima facie evidence that the extension of credit was extortionate:

(a) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable at the time the extension of credit was made through civil judicial processes against the debtor in the county in which the debtor, if a natural person, resided or in every county in which the debtor, if other than a natural person, was incorporated or qualified to do business.

(b) The extension of credit was made at a rate of interest in excess of an annual rate of forty-five percent calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

(c) At the time the extension of credit was made, the debtor reasonably believed that either of the following:

(i) One or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment had been punished by extortionate means.

(ii) The creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof.

(d) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded one hundred dollars.

(3) In a prosecution under this section, if evidence has been introduced tending to show the existence of any of the circumstances described in subsection (2)(a) or (b) of this section, and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension. [1984 c 270 § 2.]

9A.82.030 Advancing money or property to be used for extortionate credit. A person who knowingly advances money or property, whether as a gift, loan, investment, or pursuant to a partnership or profit-sharing agreement or otherwise, to any person, with reasonable grounds to believe that it is the intention of that person to use the money or property so advanced, directly or indirectly, for the purpose of making extortionate extensions of credit, is guilty of a class B felony. [1984 c 270 § 3.]

9A.82.040 Use of extortionate means to collect extensions of credit. (1) A person who knowingly participates in any way in the use of any extortionate means to collect or attempt to collect any extensions of credit or to punish any person for the nonrepayment thereof, is guilty of a class B felony.

(2) In a prosecution under this section, for the purpose of showing an implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment was punished by extortionate means.

(3) In a prosecution under this section, if evidence has been introduced tending to show the existence at the time the extension of credit in question was made of the circumstances described in RCW 9A.82.020(2) (a) or (b), and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person

against whom the alleged threat was made was a member at the time of the collection or attempt at collection. [1984 c 270 § 4.]

9A.82.050 Trafficking in stolen property. (1) A person who recklessly traffics in stolen property is guilty of trafficking in stolen property in the second degree.

(2) A person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others, or who knowingly traffics in stolen property, is guilty of trafficking in stolen property in the first degree.

(3) Trafficking in stolen property in the second degree is a class C felony. Trafficking in stolen property in the first degree is a class B felony. [1984 c 270 § 5.]

9A.82.060 Leading organized crime. (1) A person commits the offense of leading organized crime by:

(a) Intentionally organizing, managing, directing, supervising, or financing a criminal syndicate; or

(b) Knowingly inciting or inducing others to engage in violence or intimidation to promote or further the objectives of a criminal syndicate.

(2) A person shall not be convicted under this section on the basis of accountability as an accomplice unless the person aids or participates in violating this section in one of the ways specified.

(3) Leading organized crime is a class B felony. [1984 c 270 § 6.]

9A.82.070 Influencing outcome of sporting event.

Whoever knowingly gives, promises, or offers to any professional or amateur baseball, football, hockey, polo, tennis, horse race, or basketball player or boxer or any player or referee or other official who participates or expects to participate in any professional or amateur game or sport, or to any manager, coach, or trainer of any team or participant or prospective participant in any such game, contest, or sport, any benefit with intent to influence the person to lose or try to lose or cause to be lost or to limit the person's or person's team's margin of victory or defeat, or in the case of a referee or other official to affect the decisions or the performance of the official's duties in any way, in a baseball, football, hockey, or basketball game, boxing, tennis, horse race, or polo match, or any professional or amateur sport or game, in which the player or participant or referee or other official is taking part or expects to take part, or has any duty or connection therewith, is guilty of a class C felony. [1984 c 270 § 7.]

9A.82.080 Use of proceeds of racketeering—Controlling enterprise or realty—Conspiracy or attempt.

(1) It is unlawful for a person who has knowingly received any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or

equity in, real property or in the establishment or operation of any enterprise.

(2) It is unlawful for a person, through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(3) It is unlawful for a person to conspire or attempt to violate subsection (1) or (2) of this section.

(4) A knowing violation of subsection (1) or (2) of this section is a class B felony. A knowing violation of subsection (3) of this section is a class C felony. [1984 c 270 § 8.]

9A.82.090 Orders restraining racketeering—When issued. During the pendency of any criminal case charging an offense included in the definition of racketeering in RCW 9A.82.010 or a violation of RCW 9A.82.080, the superior court may, in addition to its other powers, issue an order pursuant to RCW 9A.82.100 (2) or (3). Upon conviction of a person for an offense included in the definition of racketeering or a violation of RCW 9A.82.080, the superior court may, in addition to its other powers of disposition, issue an order pursuant to RCW 9A.82.100. [1984 c 270 § 9.]

9A.82.100 Remedies and procedures. (1) A person who sustains injury to his or her person, business, or property by racketeering or by a violation of RCW 9A.82.080 may file an action in superior court for the recovery of treble damages and the costs of the suit, including reasonable investigative and attorney's fees. The attorney general or county prosecuting attorney may file an action: (a) On behalf of those persons injured or, respectively, on behalf of the state or county if the entity has sustained damages, or (b) to prevent, restrain, or remedy racketeering or a violation of RCW 9A.82.080. An action for damages filed by or on behalf of an injured person, the state, or the county shall be for the recovery of treble damages and the costs of the suit, including reasonable investigative and attorney's fees. In an action filed to prevent, restrain, or remedy racketeering or a violation of RCW 9A.82.080, the court may impose a civil penalty not exceeding two hundred fifty thousand dollars upon proof of the violation, in addition to awarding the cost of the suit, including reasonable investigative and attorney's fees.

(2) The superior court has jurisdiction to prevent, restrain, and remedy racketeering or a violation of RCW 9A.82.080 after making provision for the rights of all innocent persons affected by the violation and after hearing or trial, as appropriate, by issuing appropriate orders.

(3) Prior to a determination of liability, the orders may include, but are not limited to, entering restraining orders or prohibitions or taking such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to damages, forfeiture, or other restraints pursuant to this section as the court deems proper.

(4) Following a determination of liability, the orders may include, but are not limited to:

(a) Ordering any person to divest himself or herself of any interest, direct or indirect, in any enterprise.

(b) Imposing reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect the laws of this state, to the extent the Constitutions of the United States and this state permit.

(c) Ordering dissolution or reorganization of any enterprise.

(d) Ordering the payment of treble damages to those persons injured by racketeering or a violation of RCW 9A.82.080.

(e) Ordering the payment of all costs and expenses of the prosecution and investigation of any offense included in the definition of racketeering in RCW 9A.82.010 or a violation of RCW 9A.82.080, civil and criminal, incurred by the state or county as appropriate, to be paid to the antiracketeering revolving fund of the state or county which brings the action. If the county has not established an antiracketeering revolving fund, the payment shall be deposited in the county current expense fund.

(f) Ordering forfeiture to the general fund or antiracketeering revolving fund of the state or county as appropriate to the extent not already ordered to be paid in other damages:

(i) Any property or other interest acquired or maintained by a person in violation of RCW 9A.82.080.

(ii) Any interest in, security of, claims against or property or contractual right of any kind affording a source of influence over any enterprise which a person has established, operated, controlled, conducted, or participated in the conduct of in violation of RCW 9A.82.080.

(iii) All proceeds traceable to an offense included in the definition of racketeering in RCW 9A.82.010 and all moneys, negotiable instruments, securities, and other things of value used or intended to be used to facilitate commission of the offense.

(g) Ordering payment to the general fund or antiracketeering revolving fund of the state or county as appropriate of an amount equal to the gain a person has acquired or maintained through an offense included in the definition of racketeering.

(5) In addition to or in lieu of an action under this section, the attorney general or county prosecuting attorney may file an action for forfeiture to the general fund or antiracketeering revolving fund of the state or county as appropriate, to the extent not already ordered paid pursuant to this section, of:

(a) Any interest acquired or maintained by a person in violation of RCW 9A.82.080.

(b) Any interest in, security of, claims against or property or contractual right of any kind affording a source of influence over any enterprise which a person has established, operated, controlled, conducted, or participated in the conduct of in violation of RCW 9A.82.080.

(c) All proceeds traceable to an offense included in the definition of racketeering and all moneys, negotiable instruments, securities, and other things of value used or intended to be used to facilitate the commission of the offense.

(6) A defendant convicted in any criminal proceeding is precluded from subsequently denying the essential allegations of the criminal offense of which the defendant was convicted in any civil proceeding. For the purposes of this subsection, a conviction shall be deemed to have occurred upon a verdict or plea of guilty, notwithstanding the fact that an appeal has been or may be lodged upon any judgment and sentence entered thereon.

(7) The initiation of civil proceedings related to violations of any offense included in the definition of racketeering or a violation of RCW 9A.82.080 shall be commenced within seven years after actual discovery of the violation.

(8) The attorney general or county prosecuting attorney may, in a civil action brought pursuant to this section, file with the clerk of the superior court a certificate stating that the case is of special public importance. A copy of that certificate shall be furnished immediately by the clerk to the chief judge or presiding chief judge of the superior court in which the action is pending and, upon receipt of the copy, the judge shall immediately designate a judge to hear and determine the action. The judge so designated shall promptly assign the action for hearing, participate in the hearings and determination, and cause the action to be expedited.

(9) The standard of proof in actions brought pursuant to this section is the preponderance of the evidence test.

(10) A person other than the attorney general or county prosecuting attorney who files an action under this section shall serve notice and one copy of the pleading on the attorney general within thirty days after the action is filed with the superior court. The notice shall identify the action, the person, and the person's attorney. Service of the notice does not limit or otherwise affect the right of the state to maintain an action under this section or intervene in a pending action nor does it authorize the person to name the state or the attorney general as a party to the action.

(11) Except in cases filed by a county prosecuting attorney, the attorney general may, upon timely application, intervene in any civil action or proceeding brought under this section if the attorney general certifies that in the attorney general's opinion the action is of special public importance. Upon intervention, the attorney general may assert any available claim and is entitled to the same relief as if the attorney general had instituted a separate action.

(12) In addition to the attorney general's right to intervene as a party in any action under this section, the attorney general may appear as *amicus curiae* in any proceeding in which a claim under this section has been asserted or in which a court is interpreting RCW 9A.82.010, 9A.82.080, 9A.82.090, 9A.82.110, or 9A.82.120, or this section.

(13) A civil action under this section is remedial and does not limit any other civil or criminal action under

this chapter or any other provision. Civil remedies provided under this section are supplemental and not mutually exclusive.

(14) In bringing a civil action under this chapter, the attorney general or county prosecuting attorney may grant a witness immunity in exchange for testimony in the civil case. The immunity bars the use or derivative use of the witness' testimony in any subsequent criminal prosecution of the witness except for perjury or false swearing committed during the course of the testimony. [1984 c 270 § 10.]

9A.82.110 Antiracketeering revolving funds—State and county. (1) (a) There is established in the custody of the state treasurer an antiracketeering revolving fund to be administered by the attorney general under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the attorney general. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the attorney general as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. When the fund exceeds seven hundred fifty thousand dollars, all funds in excess of the seven hundred fifty thousand dollars shall be deposited in the state general fund.

(c) The moneys in the fund shall be used by the attorney general for the investigation and prosecution of any offense, within the jurisdiction of the attorney general, included in the definition of racketeering, including civil enforcement.

(2) (a) The county legislative authority may establish an antiracketeering revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of racketeering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiracketeering revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of

racketeering, including civil enforcement. [1984 c 270 § 11.]

9A.82.120 Racketeering lien—Authority, procedures. (1) The state, upon filing a civil action under RCW 9A.82.100, may file in accordance with this section a racketeering lien. A filing fee or other charge is not required for filing a racketeering lien.

(2) A racketeering lien shall be signed by the attorney general or the county prosecuting attorney representing the state in the action and shall set forth the following information:

(a) The name of the defendant whose property or other interests are to be subject to the lien;

(b) In the discretion of the attorney general or county prosecuting attorney filing the lien, any aliases or fictitious names of the defendant named in the lien;

(c) If known to the attorney general or county prosecuting attorney filing the lien, the present residence or principal place of business of the person named in the lien;

(d) A reference to the proceeding pursuant to which the lien is filed, including the name of the court, the title of the action, and the court's file number for the proceeding;

(e) The name and address of the attorney representing the state in the proceeding pursuant to which the lien is filed;

(f) A statement that the notice is being filed pursuant to this section;

(g) The amount which the state claims in the action or, with respect to property or other interests which the state has requested forfeiture to the state or county, a description of the property or interests sought to be paid or forfeited;

(h) If known to the attorney general or county prosecuting attorney filing the lien, a description of property which is subject to forfeiture to the state or property in which the defendant has an interest which is available to satisfy a judgment entered in favor of the state; and

(i) Such other information as the attorney general or county prosecuting attorney filing the lien deems appropriate.

(3) The attorney general or the county prosecuting attorney filing the lien may amend a lien filed under this section at any time by filing an amended racketeering lien in accordance with this section which identifies the prior lien amended.

(4) The attorney general or the county prosecuting attorney filing the lien shall, as soon as practical after filing a racketeering lien, furnish to any person named in the lien a notice of the filing of the lien. Failure to furnish notice under this subsection does not invalidate or otherwise affect a racketeering lien filed in accordance with this section.

(5) A racketeering lien is perfected against interests in personal property by filing the lien with the department of licensing. A racketeering lien is perfected against interests in real property by filing the lien with the county

auditor of the county in which the real property is located. The state may give such additional notice of the lien as it deems appropriate.

(6) The filing of a racketeering lien in accordance with this section creates a lien in favor of the state in:

(a) Any interest of the defendant, in real property situated in the county in which the lien is filed, then maintained, or thereafter acquired in the name of the defendant identified in the lien;

(b) Any interest of the defendant, in personal property situated in this state, then maintained or thereafter acquired in the name of the defendant identified in the lien; and

(c) Any property identified in the lien to the extent of the defendant's interest therein.

(7) The filing of a racketeering lien under this section is notice to all persons dealing with the person or property identified in the lien of the state's claim. The lien created in favor of the state in accordance with this section is superior and prior to the claims or interests of any other person, except a person possessing:

(a) A valid lien perfected prior to the filing of the racketeering lien;

(b) In the case of real property, an interest acquired and recorded prior to the filing of the racketeering lien; or

(c) In the case of personal property, an interest acquired prior to the filing of the racketeering lien.

(8) Upon entry of judgment in favor of the state, the state may proceed to execute thereon as in the case of any other judgment, except that in order to preserve the state's lien priority as provided in this section the state shall, in addition to such other notice as is required by law, give at least thirty days' notice of the execution to any person possessing at the time the notice is given, an interest recorded subsequent to the date the state's lien was perfected.

(9) Upon the entry of a final judgment in favor of the state providing for forfeiture of property to the state, the title of the state to the property:

(a) In the case of real property or a beneficial interest in real property, relates back to the date of filing the racketeering lien with the county auditor of the county in which the real property is located or, if no racketeering lien is filed, then to the date of recording of the final judgment or the abstract thereof with the county auditor of the county in which the real property is located; or

(b) In the case of personal property or a beneficial interest in personal property, relates back to the date the personal property was seized by the state, or the date of filing of a racketeering lien in accordance with this section, whichever is earlier, but if the property was not seized and no racketeering lien was filed then to the date the final judgment was filed with the department of licensing and, if the personal property is an aircraft, with the federal aviation administration.

(10) This section does not limit the right of the state to obtain any order or injunction, receivership, writ, attachment, garnishment, or other remedy authorized under RCW 9A.82.100 or appropriate to protect the

interests of the state or available under other applicable law. [1984 c 270 § 12.]

9A.82.130 Racketeering lien—Trustee of real property. [(1)] A trustee who receives written notice that a lien notice has been recorded or a civil proceeding or criminal proceeding has been instituted against any person for whom the trustee holds legal or record title to real property, shall immediately furnish to the attorney general or county prosecuting attorney the following:

(a) The name and address of the person, as known to the trustee;

(b) To the extent known to the trustee, the name and address of all other persons for whose benefit the trustee holds title to the real property; and

(c) If requested by the attorney general or county prosecuting attorney, a copy of the trust agreement or other instrument under which the trustee holds legal or record title to the real property.

(2) The recording of a lien notice shall not constitute a lien on the record title to real property owned by a trustee at the time of recording except to the extent that trustee is named in the lien notice. The attorney general or county prosecuting attorney may bring a civil proceeding in superior court against the trustee to recover from the trustee the amounts set forth in RCW 9A.82.150. In addition to amounts recovered under RCW 9A.82.150, the attorney general or county prosecuting attorney also may recover its investigative costs and attorneys' fees.

(3) The recording of a lien notice does not affect the use to which real property or a beneficial interest owned by the person named in the lien notice may be put or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership except the sale of the property, until a judgment of forfeiture is entered.

(4) This section does not apply to any conveyance by a trustee under a court order unless the court order is entered in an action between the trustee and the beneficiary.

(5) Unless a trustee receives written notice that a person having a beneficial interest in the trust is named in a lien notice or is otherwise a defendant in a civil proceeding, this section does not apply to:

(a) A conveyance by a trustee required under the terms of any trust agreement if the trust agreement is a matter of public record before a lien notice is filed; or

(b) A conveyance by a trustee to all persons who have a beneficial interest in the trust. [1984 c 270 § 13.]

9A.82.140 Racketeering lien—Procedures after notice. (1) The term of a lien notice shall be six years from the date the lien notice is recorded. If a renewal lien notice is filed by the attorney general or county prosecuting attorney, the term of the renewal lien notice shall be for six years from the date the renewal lien notice is recorded. The attorney general or county prosecuting attorney is entitled to only one renewal of the lien notice.

(2) The attorney general or county prosecuting attorney filing the lien notice may release in whole or in part any lien notice or may release any specific property or beneficial interest from the lien notice upon such terms and conditions as the attorney general or county prosecuting attorney considers appropriate. A release of a lien notice executed by the attorney general or county prosecuting attorney shall be recorded in the official records in which the lien notice covering that property was recorded. No charge or fee may be imposed for recording any release of a lien notice.

(3) (a) A person named in the lien notice may move the court in which the civil proceeding giving rise to the lien notice is pending for an order extinguishing the lien notice.

(b) Upon the motion of a person under (a) of this subsection, the court immediately shall enter an order setting a date for hearing, which shall be not less than five nor more than ten days after the motion is filed. The order and a copy of the motion shall be served on the attorney general or county prosecuting attorney within three days after the entry of the court's order. At the hearing, the court shall take evidence on the issue of whether any property or beneficial interest owned by the person is covered by the lien notice or otherwise subject to forfeiture under RCW 9A.82.120. If the person shows by a preponderance of the evidence that the lien notice is not applicable to the person or that any property or beneficial interest owned by the person is not subject to forfeiture under RCW 9A.82.120, the court shall enter a judgment extinguishing the lien notice or releasing the property or beneficial interest from the lien notice.

(c) The court may enter an order releasing from the lien notice any specific real property or beneficial interest if, at the time the lien notice is recorded, there is pending an arms length sale of the real property or beneficial interest in which the parties are under no undue compulsion to sell or buy and are able, willing, and reasonably well informed and the sale is for the fair market value of the real property or beneficial interest and the recording of the lien notice prevents the sale of the property or interest. The proceeds resulting from the sale of the real property or beneficial interest shall be deposited with the court, subject to the further order of the court.

(d) At the hearing held pursuant to (b) of this subsection, if the court releases from the lien notice any property or beneficial interest, the person shall post security equal to the fair market value of the property or beneficial interest owned by the person. [1984 c 270 § 14.]

9A.82.150 Racketeering lien—Conveyance of property by trustee, liability. (1) If a trustee conveys title to real property for which, at the time of the conveyance, a lien notice has been recorded in the county in which the real property is situated and the notice names a person who the trustee knows holds a beneficial interest in the trust, the trustee shall be liable to the state for the greater of:

(a) The amount of proceeds received by the person named in the lien notice as a result of the conveyance;

(b) The amount of proceeds received by the trustee as a result of the conveyance and distributed by the trustee to the person named in the lien notice; or

(c) The fair market value of the interest of the person named in the lien notice in the real property so conveyed.

(2) If the trustee conveys the real property for which a lien notice has been recorded at the time of the conveyance and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or beneficiary's designee, the trustee's liability shall not exceed the amount of the proceeds so held so long as the trustee continues to hold the proceeds. [1984 c 270 § 15.]

9A.82.160 Racketeering lien—Trustee's failure to comply. A trustee who fails to comply with RCW 9A.82.130(1) is guilty of a class C felony. [1984 c 270 § 16.]

9A.82.170 Financial institution records—Inspection and copying—Wrongful disclosure. (1) A custodian of the records of a financial institution shall, at no expense to the financial institution, produce for inspection or copying the records in the custody of the financial institution when requested to be inspected by the attorney general or a county prosecuting attorney, provided the person requesting the information has served a subpoena issued by a court or obtained a court order for the information. The attorney general or a county prosecuting attorney or any peace officer or other person designated by the county prosecuting attorney or the attorney general shall be prohibited from using or releasing the information except in the proper discharge of official duties. If directed by the court in the subpoena or court order, neither the custodian nor any other employee of the institution shall disclose to the institution's customer the fact that the customer's records have been examined or copied. The furnishing of records in compliance with this section by a custodian of records is a bar to civil or criminal liability against the custodian or financial institution in any action brought alleging violation of the confidentiality of the records.

(2) Disclosure by the attorney general, county prosecuting attorney, or any peace officer designated by the attorney general or the county prosecuting attorney of information obtained under this section, except in the proper discharge of official duties, is a misdemeanor.

(3) Disclosure by the custodian or employee of the financial institution contrary to subsection (1) of this section is a misdemeanor.

(4) This section does not preclude the use of any other legally authorized means of obtaining the information. [1984 c 270 § 17.]

9A.82.900 Severability—1984 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. [1984 c 270 § 20.]

9A.82.901 Effective date—1984 c 270. This act shall take effect on July 1, 1985. [1984 c 270 § 21.]

Title 10

CRIMINAL PROCEDURE

Chapters

- 10.01** General provisions.
- 10.04** Justice court procedure—Generally.
- 10.16** Preliminary hearings.
- 10.19** Bail and appearance bonds.
- 10.25** Jurisdiction and venue.
- 10.31** Warrants and arrests.
- 10.37** Accusations and their requisites.
- 10.40** Arraignment.
- 10.46** Superior court trial.
- 10.49** Trial juries.
- 10.52** Witnesses—Generally.
- 10.61** Verdicts.
- 10.64** Judgments and sentences.
- 10.67** New trials.
- 10.79** Searches and seizures.
- 10.82** Collection and disposition of fines and costs.
- 10.98** Criminal justice information act.
- 10.99** Domestic violence—Official response.

Chapter 10.01

GENERAL PROVISIONS

Sections

- 10.01.080 Repealed.
- 10.01.110 Repealed.

10.01.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.01.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.04

JUSTICE COURT PROCEDURE—GENERALLY

Sections

- 10.04.010 Repealed.
- 10.04.030 Repealed.

10.04.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.04.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.16 PRELIMINARY HEARINGS

Sections

- 10.16.010 Repealed.
- 10.16.030 Repealed.
- 10.16.040 Repealed.
- 10.16.070 Repealed.
- 10.16.140 Repealed.
- 10.16.190 Repealed.

10.16.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.16.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.16.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.16.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.16.140 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.16.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.19

BAIL AND APPEARANCE BONDS

Sections

- 10.19.010 through 10.19.025 Repealed.
- 10.19.050 Repealed.
- 10.19.070 Repealed.
- 10.19.080 Repealed.

10.19.010 through 10.19.025 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.19.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.19.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.19.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.25

JURISDICTION AND VENUE

Sections

- 10.25.010 through 10.25.060 Repealed.
- 10.25.080 through 10.25.110 Repealed.

10.25.010 through 10.25.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.25.080 through 10.25.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.31

WARRANTS AND ARRESTS

Sections

10.31.010	Repealed.
10.31.020	Repealed.
10.31.100	Arrest without warrant.

10.31.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.31.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.31.100 Arrest without warrant. A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (4) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 10.99.040(2), 10.99.050, 26.09-.060, chapter 26.26 RCW, or chapter 26.50 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from a residence; or

(b) The person within the preceding four hours has assaulted that person's spouse, former spouse, or other person with whom the person resides or has formerly resided.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.525, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Except as specifically provided in subsections (2), (3), and (4) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(6) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100(2) if the police officer acts in good faith and without malice. [1984 c 263 § 19; 1981 c 106 § 1; 1980 c 148 § 8; 1979 ex.s. c 28 § 1; 1969 ex.s. c 198 § 1.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Arrest procedure involving traffic violations: Chapter 46.64 RCW.

Domestic violence, peace officers—Immunity: RCW 26.50.140.

Uniform Controlled Substances Act: Chapter 69.50 RCW.

Chapter 10.37

ACCUSATIONS AND THEIR REQUISITES

Sections

10.37.020	through 10.37.035	Repealed.
10.37.180		Repealed.

10.37.020 through 10.37.035 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.37.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.40

ARRAIGNMENT

Sections

10.40.010	through 10.40.040	Repealed.
10.40.080		Repealed.
10.40.130		Repealed.
10.40.150		Repealed.
10.40.160		Repealed.
10.40.175		Repealed.

10.40.010 through 10.40.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.40.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.40.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.40.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.40.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.40.175 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.46 SUPERIOR COURT TRIAL

Sections

10.46.010	Repealed.
10.46.040	Repealed.
10.46.050	Repealed.
10.46.090	Repealed.
10.46.100	Repealed.
10.46.120	through 10.46.180 Repealed.

10.46.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.46.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.46.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.46.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.46.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.46.120 through 10.46.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.49 TRIAL JURIES

Sections

10.49.020	through 10.49.110 Repealed.
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10.49.020 through 10.49.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.52 WITNESSES—GENERALLY

Sections

10.52.030	Repealed.
10.52.040	Compelling witness to attend and testify—Accused as witness.

10.52.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.52.040 Compelling witness to attend and testify—Accused as witness. Witnesses may be compelled to attend and testify before the grand jury; and witnesses on behalf of the state, or of the defendant, in a criminal prosecution, may be compelled to attend and testify in open court, if they have been subpoenaed, without their fees being first paid or tendered, unless otherwise provided by law; the court may, upon the motion of the prosecuting attorney or defense counsel, recognize witnesses, with or without sureties, to attend and testify at any hearing or trial in any criminal prosecution in any court of this state, or before the grand jury. In default of such recognizance, or in the event that surety is required and has not been obtained, the court shall require the appearance of the witness before the court and shall appoint counsel for the witness if he is indigent and then shall determine that the testimony of the witness would be material to either the prosecution or the defendant and that the witness would not attend the trial of the matter unless detained and, therefore, the court may direct that such witness shall be detained in the custody of the sheriff until the hearing or trial in which the witness is to testify: *Provided*, That each witness detained for failure to obtain surety shall be paid, in addition to witness fees for actual appearance in court, for each day of his detention a sum equal to the daily jury fee paid to a juror serving in a superior court; and each witness in breach of recognizance and who is detained therefor shall be paid, in addition to witness fees for actual appearance in court, the sum of one dollar for each day of his detention. Any such witness shall be provided food and lodging while so detained. Any person accused of any crime in this state, by indictment, information, or otherwise, may, in the examination or trial of the cause, offer himself, or herself, as a witness in his or her own behalf, and shall be allowed to testify as other witnesses in such case, and when accused shall so testify, he or she shall be subject to all the rules of law relating to cross-examination of other witnesses: *Provided*, That nothing in this code shall be construed to compel such accused person to offer himself or herself as a witness in such case. [1984 c 76 § 17; 1969 ex.s. c 143 § 1; 1915 c 83 § 1; 1891 c 28 § 69; Code 1881 § 1067; 1873 p 233 § 229; 1871 p 105 § 2; 1854 p 116 § 93; RRS § 2148. Formerly RCW 10.52.040, 10.52.050, 10.52.070, 10.52.080.]

Rules of court: See CrR 6.13, 6.14.

Rights of accused persons: State Constitution Art. 1 §§ 9, 22 (Amendment 10).

Chapter 10.61 VERDICTS

Sections

10.61.030	Repealed.
10.61.040	Repealed.
10.61.050	Repealed.

10.61.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.61.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.61.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.64

JUDGMENTS AND SENTENCES

Sections

10.64.010	Repealed.
10.64.020	through 10.64.040 Repealed.
10.64.090	Repealed.

10.64.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.64.020 through 10.64.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.64.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.67 NEW TRIALS

Sections

10.67.010	Repealed.
10.67.030	Repealed.

10.67.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.67.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.79 SEARCHES AND SEIZURES

Sections

10.79.010	Repealed.
10.79.030	Repealed.

10.79.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.79.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 10.82 COLLECTION AND DISPOSITION OF FINES AND COSTS

Sections

10.82.070	Disposition of costs, fines, fees, penalties, and forfeitures. (Effective July 1, 1985.)
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10.82.070 Disposition of costs, fines, fees, penalties, and forfeitures. (Effective July 1, 1985.) (1) All sums of money derived from costs, fines, penalties, and forfeitures imposed or collected, in whole or in part, by a superior court for violation of orders of injunction, mandamus and other like writs, for contempt of court, or for breach of the penal laws shall be paid in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued.

(2) The county treasurer shall remit monthly thirty-five percent of the money received under this section to the state treasurer for deposit as provided under RCW 43.08.250 and shall deposit the remainder as provided by law.

(3) All fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. All fees, fines, forfeitures, and penalties collected or assessed by a superior court in cases on appeal from a lower court shall be remitted to the municipal or district court from which the cases were appealed. [1984 c 258 § 313; 1969 ex.s. c 199 § 11; 1967 c 122 § 1; 1965 c 158 § 16; 1919 c 30 § 1; 1909 p 323 § 9; 1897 c 118 § 113; 1895 c 68 § 1; 1890 p 383 § 89; 1886 p 20 § 58; Code 1881 § 3211; 1873 p 421 § 3; RRS § 4940. Formerly codified as RCW 9.01.140.]

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.

Chapter 10.98

CRIMINAL JUSTICE INFORMATION ACT

Sections

10.98.010	Purpose.
10.98.020	Short title.
10.98.030	Source of conviction histories.
10.98.040	Definitions.
10.98.050	Fingerprints, identifying data, and disposition reports from various officials.
10.98.060	Arrest and fingerprint form.
10.98.070	Participation in national crime information center interstate identification index.
10.98.080	State identification number, furnishing of.
10.98.090	Disposition reports.
10.98.100	Compliance audit of disposition reports.
10.98.110	Tracking of felony cases.
10.98.120	Reporting of admissions and releases by local jails— Plans and procedures.
10.98.130	Reporting of admissions and releases by local jails— Information required.
10.98.140	Criminal justice forecasting information.
10.98.150	Release of information on suspected or convicted felons.
10.98.160	Procedures, development considerations—Executive committee, review and recommendations.

10.98.010 Purpose. The purpose of this chapter is to provide a system of reporting and disseminating felony criminal justice information that provides: (1) Timely and accurate criminal histories for filing and sentencing under the sentencing reform act of 1981, (2) identification and tracking of felons, and (3) data for state-wide

planning and forecasting of the felon population. [1984 c 17 § 1.]

10.98.020 Short title. This chapter may be known and cited as the criminal justice information act. [1984 c 17 § 2.]

10.98.030 Source of conviction histories. The Washington state patrol identification and criminal history section as established in RCW 43.43.700 shall be the primary source of felony conviction histories for filings, plea agreements, and sentencing on felony cases. [1984 c 17 § 3.]

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

(1) "Arrest and fingerprint form" means the reporting form prescribed by the identification and criminal history section to initiate compiling felony and serious gross misdemeanor arrest and identification information.

(2) "Chief law enforcement officer" includes the sheriff or director of public safety of a county, the chief of police of a city or town, and chief officers of other law enforcement agencies operating within the state.

(3) "Department" means the department of corrections.

(4) "Disposition" means the conclusion of a criminal proceeding at any stage it occurs in the criminal justice system. Disposition includes but is not limited to temporary or permanent outcomes such as charges dropped by police, charges not filed by the prosecuting attorney, deferred prosecution, defendant absconded, charges filed by the prosecuting attorney pending court findings such as not guilty, dismissed, guilty, or guilty—case appealed to higher court.

(5) "Disposition report" means the reporting form prescribed by the identification and criminal history section to report the legal procedures taken after completing an arrest and fingerprint form. The disposition report shall include but not be limited to the following types of information:

- (a) The type of disposition;
- (b) The statutory citation for the arrests;
- (c) The sentence structure if the defendant was convicted of a felony;
- (d) The state identification number; and
- (e) Identification information and other information that is prescribed by the identification and criminal history section.

(6) "Fingerprints" means the fingerprints taken from arrested or charged persons under the procedures prescribed by the Washington state patrol identification and criminal history section.

(7) "Prosecuting attorney" means the public or private attorney prosecuting a criminal case.

(8) "Section" refers to the Washington state patrol section on identification and criminal history.

(9) "Sentence structure" means itemizing the components of the felony sentence. The sentence structure shall

include but not be limited to the total or partial confinement sentenced, and whether the sentence is prison or jail, community supervision, fines, restitution, or community service. [1984 c 17 § 4.]

10.98.050 Fingerprints, identifying data, and disposition reports from various officials. (1) Except in the case of juveniles, it is the duty of the chief law enforcement officer to transmit within seventy-two hours from the time of arrest to the section fingerprints together with other identifying data as may be prescribed by the section, and statutory violations of any person lawfully arrested, fingerprinted, and photographed under RCW 43.43.735. The disposition report shall be transmitted to the prosecuting attorney.

(2) At the preliminary hearing or the arraignment of a felony case, the judge shall ensure that the felony defendants have been fingerprinted and an arrest and fingerprint form transmitted to the section. In cases where fingerprints have not been taken, the judge shall order the chief law enforcement officer of the jurisdiction to initiate an arrest and fingerprint form and transmit it to the section. The disposition report shall be transmitted to the prosecuting attorney.

(3) The chief law enforcement officer of the jurisdiction shall initiate an arrest and fingerprint form for all juveniles who are fifteen years of age or older at the time the offense was committed and who are adjudicated of offenses that would be felonies if the juveniles were adults, and transmit the information within seventy-two hours to the section. The administrator of juvenile court services shall assist the chief law enforcement officer of the jurisdiction in developing procedures for obtaining the identification and disposition information required in this subsection, and the procedures shall be subject to the approval of the juvenile court judge. The juvenile information section of the administrator for the courts may assist the juvenile court with providing the section arrest and fingerprint forms, other identification, or other criminal history information. [1984 c 17 § 5.]

10.98.060 Arrest and fingerprint form. The arrest and fingerprint form shall include but not be limited to the following:

(1) Unique numbers associated with the arrest charges. The unique numbering system may be controlled by the local law enforcement agency, however the section shall approve of the numbering system and maintain a current catalog of approved local numbering systems. The purpose of the unique numbering system is to allow tracking of arrest charges through disposition;

(2) An organization code;

(3) Date of arrest;

(4) Local identification number;

(5) The prescribed fingerprints;

(6) Individual identification information and other information prescribed by the section. [1984 c 17 § 6.]

10.98.070 Participation in national crime information center interstate identification index. The section shall be

the sole recipient of arrest and fingerprint forms described in RCW 10.98.060, fingerprint forms described in RCW 43.43.760, and disposition reports for forwarding to the federal bureau of investigation as required for participation in the national crime information center interstate identification index. The section shall comply with national crime information center interstate identification index regulations to maintain availability of out-of-state criminal history information. [1984 c 17 § 7.]

10.98.080 State identification number, furnishing of. The section shall promptly furnish a state identification number to the chief law enforcement officer and to the prosecuting attorney who received a copy of the arrest and fingerprint form. In the case of juvenile felony-like adjudications, the section shall furnish the state identification number to the juvenile information section of the administrator for the courts. [1984 c 17 § 8.]

10.98.090 Disposition reports. (1) In all cases where an arrest and fingerprint form is transmitted to the section, the prosecuting attorney shall promptly transmit to the section a disposition report following a disposition on the case. The prosecuting attorney shall at the same time forward a copy of all felony conviction disposition reports to the department.

(2) If the disposition of the criminal charge is made by the arresting agency such as releasing the individual without charge, the arresting agency shall complete the disposition report and forward the information to the prosecuting attorney. [1984 c 17 § 9.]

10.98.100 Compliance audit of disposition reports. The section shall administer a compliance audit at least once annually for each prosecuting attorney to ensure that all disposition reports have been received and added to the criminal offender record information described in RCW 43.43.705. The section shall prepare listings of all arrests charged and listed in the criminal offender record information for which no disposition report has been received and which has been outstanding for more than nine months since the date of arrest. Each prosecuting attorney shall be furnished a list of outstanding disposition reports. Cases pending prosecution shall be considered outstanding dispositions in the compliance audit. Within forty-five days, the prosecuting attorney shall provide the section with a current disposition report for each outstanding disposition. The section shall assist prosecuting attorneys with the compliance audit by cross-checking outstanding cases with the administrator for the courts and the department of corrections. The section may provide technical assistance to prosecuting attorneys for their compliance audits. The results of compliance audits shall be published annually and distributed to legislative committees dealing with criminal justice issues, the office of financial management, and criminal justice agencies and associations. [1984 c 17 § 10.]

10.98.110 Tracking of felony cases. (1) The department shall maintain records to track felony cases following convictions in Washington state and felony cases under the jurisdiction of Washington state pursuant to interstate compact agreements.

(2) Tracking shall begin at the time the department receives a disposition form from a prosecuting attorney and shall include the collection and updating of felons' criminal records from conviction through completion of sentence.

(3) The department of corrections shall collect information for tracking felons from its offices and from information provided by county clerks, the Washington state patrol identification and criminal history section, the corrections standards board, and any other public or private agency that provides services to help individuals complete their felony sentences. [1984 c 17 § 11.]

10.98.120 Reporting of admissions and releases by local jails—Plans and procedures. The corrections standards board shall establish plans and procedures for prompt reporting by local jails to the corrections standards board of the admission and release of all individuals. The plans and procedures for local jails reporting to the corrections standards board shall be completed by June 30, 1985. [1984 c 17 § 12.]

10.98.130 Reporting of admissions and releases by local jails—Information required. Local jails shall report to the corrections standards board and the corrections standards board shall transmit to the department the information on all persons convicted of felonies or incarcerated for noncompliance with a felony sentence who are admitted or released from the jails and shall promptly respond to requests of the department for such data. Information transmitted shall include but not be limited to the state identification number, whether the reason for admission to jail was a felony conviction or noncompliance with a felony sentence, and the dates of the admission and release. [1984 c 17 § 13.]

10.98.140 Criminal justice forecasting information. The section, the department, and the corrections standards board shall be the primary sources of information for criminal justice forecasting. The information maintained by these agencies shall be complete, accurate, and sufficiently timely to support state criminal justice forecasting. [1984 c 17 § 14.]

10.98.150 Release of information on suspected or convicted felons. The section and the department shall provide prompt responses to the requests of law enforcement agencies and jails regarding the status of suspected or convicted felons. Dissemination of individual identities, criminal histories, or the whereabouts of a suspected or convicted felon shall be in accordance with chapter 10.97 RCW, the Washington state criminal records privacy act. [1984 c 17 § 15.]

10.98.160 Procedures, development considerations—Executive committee, review and recommendations. In the development and modification of the procedures, definitions, and reporting capabilities of the section, the department, and the corrections standards board, the responsible agencies and persons shall consider the needs of other criminal justice agencies such as the administrator for the courts, local law enforcement agencies, jailers, the sentencing guidelines commission, the board of prison terms and paroles, the clemency board, prosecuting attorneys, and affected state agencies such as the office of financial management and legislative committees dealing with criminal justice issues. An executive committee appointed by the heads of the department, the Washington state patrol, the corrections standards board, and the office of financial management shall review and provide recommendations for development and modification of the section, the department, and the corrections standards board's felony criminal information systems. [1984 c 17 § 16.]

Chapter 10.99

DOMESTIC VIOLENCE—OFFICIAL RESPONSE

Sections

10.99.020	Definitions.
10.99.030	Law enforcement officers—Training, powers, duties.
10.99.040	Restrictions upon and duties of court.
10.99.045	Appearances by defendant—Orders prohibiting contact.
10.99.050	Restriction or prohibition of contact with victim—Procedures.
10.99.055	Enforcement of orders against defendants.

*Arrest without warrant in domestic violence cases: RCW 10.31.100(2).
Domestic violence prevention: Chapter 26.50 RCW.*

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

(1) "Family or household members" means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(2) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

- (a) Assault in the first degree (RCW 9A.36.010);
- (b) Assault in the second degree (RCW 9A.36.020);
- (c) Simple assault (RCW 9A.36.040);
- (d) Reckless endangerment (RCW 9A.36.050);
- (e) Coercion (RCW 9A.36.070);
- (f) Burglary in the first degree (RCW 9A.52.020);
- (g) Burglary in the second degree (RCW 9A.52.030);
- (h) Criminal trespass in the first degree (RCW 9A.52.070);
- (i) Criminal trespass in the second degree (RCW 9A.52.080);
- (j) Malicious mischief in the first degree (RCW 9A.48.070);

(k) Malicious mischief in the second degree (RCW 9A.48.080);

(l) Malicious mischief in the third degree (RCW 9A.48.090);

(m) Kidnapping in the first degree (RCW 9A.40.020);

(n) Kidnapping in the second degree (RCW 9A.40.030);

(o) Unlawful imprisonment (RCW 9A.40.040);

(p) Violation of the provisions of a restraining order restraining the person or excluding the person from a residence (RCW 26.09.300);

(q) Violation of the provisions of a protection order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, or 26.50.130);

(r) Rape in the first degree *(RCW 9.79.170); and

(s) Rape in the second degree *(RCW 9.79.180).

(3) "Victim" means a family or household member who has been subjected to domestic violence. [1984 c 263 § 20; 1979 ex.s. c 105 § 2.]

***Reviser's note:** RCW 9.79.170 and 9.79.180 were recodified as RCW 9A.44.040 and 9A.44.050, respectively, by 1979 ex.s. c 245 § 17.

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Domestic violence defined under the domestic violence prevention act, chapter 26.50 RCW: RCW 26.50.010.

10.99.030 Law enforcement officers—Training, powers, duties. (1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(3)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(4) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a state-wide twenty-four-hour toll-free hotline at 1-800-562-6025. The battered women's shelter and other resources in your area are — (include local information)"

(5) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(6) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.

(7) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(8) Records kept pursuant to subsections (3) and (7) of this section shall be made identifiable by means of a departmental code for domestic violence. [1984 c 263 § 21; 1981 c 145 § 5; 1979 ex.s. c 105 § 3.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

10.99.040 Restrictions upon and duties of court. (1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: *Provided*, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any defendant charged with a crime involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may prohibit the defendant from having any contact with the victim. The arresting jurisdiction authorizing the release shall determine whether the defendant should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting the defendant from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the defendant from having contact with the victim. The no-contact order shall also be issued in writing as soon as possible. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which the defendant resides or to the defendant's counsel for safekeeping.

(3) Wilful violation of a court order issued under subsection (2) of this section is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest. A certified copy of the order shall be provided to the victim.

(4) Whenever an order prohibiting contact is issued under subsection (2) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. [1984 c 263 § 22; 1983 c 232 § 7; 1981 c 145 § 6; 1979 ex.s. c 105 § 4.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1983 c 232: See note following RCW 9.41.010.

Orders for protection in cases of domestic violence: RCW 26.50.030, 26.50.070.

Temporary restraining order: RCW 26.09.060.

10.99.045 Appearances by defendant—Orders prohibiting contact. (1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020(2) shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic

violence as defined by RCW 10.99.020(2) and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, as one of the conditions of pretrial release, the court may require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which the defendant resides or to the defendant's counsel for safekeeping. The decision of the judge and findings of fact in support thereof shall be in writing.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and (4). [1984 c 263 § 23; 1983 c 232 § 8; 1981 c 145 § 7.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1983 c 232: See note following RCW 9.41.010.

10.99.050 Restriction or prohibition of contact with victim—Procedures. (1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. [1984 c 263 § 24; 1979 ex.s. c 105 § 5.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

10.99.055 Enforcement of orders against defendants. A peace officer in this state shall enforce an order issued by any court in this state restricting a defendant's ability to have contact with a victim by arresting and taking the

defendant into custody, pending release on bail, personal recognizance, or court order, when the officer has probable cause to believe that the defendant has violated the terms of that order. [1984 c 263 § 25; 1983 c 232 § 9; 1981 c 145 § 8.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1983 c 232: See note following RCW 9.41.010.

Title 11

PROBATE LAW AND PROCEDURE— 1965 ACT

Chapters

- 11.02** General provisions.
- 11.12** Wills.
- 11.16** Jurisdiction—Venue—Notices.
- 11.28** Letters testamentary and of administration.
- 11.36** Qualifications of personal representatives.
- 11.52** Provisions for family support.
- 11.68** Settlement of estates without administration.
- 11.88** Guardianship—Appointment, qualification, removal of guardians and limited guardians.
- 11.92** Guardianship—Powers and duties of guardian or limited guardian.
- 11.93** Uniform gifts to minors act.
- 11.94** Power of attorney.
- 11.95** Powers of appointment.
- 11.96** Jurisdiction and proceedings.
- 11.97** Effect of trust instrument.
- 11.98** Trusts.
- 11.100** Investment of trust funds.
- 11.102** Common trust funds.
- 11.104** Washington principal and income act.
- 11.106** Trustees' accounting act.
- 11.108** Trust gift distribution.
- 11.110** Charitable trusts.

Chapter 11.02

GENERAL PROVISIONS

Sections

- 11.02.001** Section headings in Title 11 RCW not part of law.
- 11.02.005** Definitions and use of terms. (Effective January 1, 1985.)
- 11.02.010** Recodified as RCW 11.96.009. (Effective January 1, 1985.)
- 11.02.020** Recodified as RCW 11.96.020. (Effective January 1, 1985.)
- 11.02.030** Recodified as RCW 11.96.030. (Effective January 1, 1985.)
- 11.02.060** Recodified as RCW 11.96.090. (Effective January 1, 1985.)

11.02.001 Section headings in Title 11 RCW not part of law. Section headings, as found in Title 11 RCW, do not constitute any part of the law. [1984 c 149 § 179.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.02.005 Definitions and use of terms. (Effective January 1, 1985.) When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to the intestate, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the intestate who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the intestate but who left issue surviving the intestate; each share of a deceased person in the nearest degree shall be divided among those of the intestate's issue who survive the intestate and have no ancestor then living who is in the line of relationship between them and the intestate, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the intestate. Posthumous children are considered as living at the death of their parent.

(4) "Issue" includes all the lawful lineal descendants of the ancestor and all lawfully adopted children.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020 and includes all codicils.

(9) "Codicil" means an instrument that is validly executed in the manner provided by this title for a will and that refers to an existing will for the purpose of altering or changing the same, and which need not be attached thereto.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) Words that import the singular number may also be applied to the plural of persons and things.

(16) Words importing the masculine gender only may be extended to females also. [1984 c 149 § 4; 1977 ex.s. c 80 § 14; 1975-'76 2nd ex.s. c 42 § 23; 1965 c 145 § 11.02.005. Former RCW sections: Subd. (3), RCW 11.04.110; subd. (4), RCW 11.04.010; subd. (5), RCW 11.04.100; subd. (6), RCW 11.04.280; subd. (7), RCW 11.04.010; subd. (8) and (9), RCW 11.12.240; subd. (14) and (15), RCW 11.02.040.]

Severability—1984 c 149: "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 149 § 181.]

Effective dates—1984 c 149: "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 sections 1 through 98, 100 through 138, and 147 through 178 of this act which shall take effect January 1, 1985." [1984 c 149 § 180.] Sections 99, 139 through 146, and 179 through 181 took effect March 7, 1984. For disposition of sections see Codification Tables, this volume.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900, 26.26.905.

Effect of decree of adoption: RCW 26.33.260.

Kindred of the half blood: RCW 11.04.035.

11.02.010 Recodified as RCW 11.96.009. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.02.020 Recodified as RCW 11.96.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.02.030 Recodified as RCW 11.96.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.02.060 Recodified as RCW 11.96.090. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 11.12 WILLS

Sections	
11.12.250	Gifts to trusts. (Effective January 1, 1985.)
11.12.255	Incorporation by reference. (Effective January 1, 1985.)

11.12.260 Separate writing may direct disposition of tangible personal property—Requirements. (Effective January 1, 1985.)

11.12.250 Gifts to trusts. (Effective January 1, 1985.) A gift may be made by a will to a trustee of a trust executed by any trustor or testator (including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts) if (1) the trust is identified in the testator's will and (2) its terms are evidenced either (a) in a written instrument other than a will, executed by the trustor prior to or concurrently with the execution of the testator's will or (b) in the will of a person who has predeceased the testator, regardless of when executed. The existence, size, or character of the corpus of the trust is immaterial to the validity of the gift. Such gift shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the testator's will or after the testator's death. Unless the will provides otherwise, the property so given shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given to be administered and disposed of in accordance with the terms of the instrument establishing the trust, including any amendments, made prior to the death of the testator, and regardless of whether made before or after the execution of the will. Unless the will provides otherwise, an express revocation of the trust prior to the testator's death invalidates the gift. Any termination of the trust other than by express revocation does not invalidate the gift. For purposes of this section, the term "gift" includes the exercise of any testamentary power of appointment. [1984 c 149 § 5; 1965 c 145 § 11.12.250. Prior: 1959 c 116 § 1.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Trusts—Rule against perpetuities: Chapter 11.98 RCW.

11.12.255 Incorporation by reference. (Effective January 1, 1985.) A will may incorporate by reference any writing in existence when the will is executed if the will itself manifests the testator's intent to incorporate the writing and describes the writing sufficiently to permit its identification. In the case of any inconsistency between the writing and the will, the will controls. [1984 c 149 § 6.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.12.260 Separate writing may direct disposition of tangible personal property—Requirements. (Effective January 1, 1985.) (1) A will may refer to a writing that directs disposition of tangible personal property not otherwise specifically disposed of by the will other than property used primarily in trade or business. Such a writing shall not be effective unless: (a) An unrevoked will refers to the writing, (b) the writing is either in the handwriting of, or signed by, the testator, and (c) the writing describes the items and the recipients of the property with reasonable certainty.

(2) The writing may be written or signed before or after the execution of the will and need not have significance apart from its effect upon the dispositions of property made by the will. A writing that meets the requirements of this section shall be given effect as if it were actually contained in the will itself, except that if any person designated to receive property in the writing dies before the testator, the property shall pass as further directed in the writing and in the absence of any further directions, the disposition shall lapse and RCW 11.12.110 shall not apply to such lapse.

(3) The testator may make subsequent handwritten or signed changes to any writing. If there is an inconsistent disposition of tangible personal property as between writings, the most recent writing controls.

(4) As used in this section "tangible personal property" means articles of personal or household use or ornament, for example, furniture, furnishings, automobiles, boats, airplanes, and jewelry, as well as precious metals in any tangible form, for example, bullion or coins. The term includes articles even if held for investment purposes and encompasses tangible property that is not real property. The term does not include mobile homes or intangible property, for example, money that is normal currency or normal legal tender, evidences of indebtedness, bank accounts or other monetary deposits, documents of title, or securities. [1984 c 149 § 7.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.16

JURISDICTION—VENUE—NOTICES

Sections

11.16.050 Repealed. (Effective January 1, 1985.)

Venue in probate and trust proceedings: RCW 11.96.050.

11.16.050 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 11.28

LETTERS TESTAMENTARY AND OF ADMINISTRATION

Sections

11.28.240 Request for special notice of proceedings in probate. (Effective January 1, 1985.)

11.28.240 Request for special notice of proceedings in probate. (Effective January 1, 1985.) At any time after the issuance of letters testamentary or of administration or certificate of qualification upon the estate of any decedent, any person interested in the estate as an heir, devisee, distributee, legatee or creditor whose claim has been duly served and filed, or the lawyer for the heir, devisee, distributee, legatee, or creditor may serve upon the personal representative or upon the lawyer for the personal representative, and file with the clerk of the

court wherein the administration of the estate is pending, a written request stating that the person desires special notice of any or all of the following named matters, steps or proceedings in the administration of the estate, to wit:

- (1) Filing of petitions for sales, leases, exchanges or mortgages of any property of the estate.
- (2) Petitions for any order of solvency or for nonintervention powers.
- (3) Filing of accounts.
- (4) Filing of petitions for distribution.
- (5) Petitions by the personal representative for family allowances and homesteads.
- (6) The filing of a declaration of completion.
- (7) The filing of the inventory.
- (8) Notice of presentation of personal representative's claim against the estate.
- (9) Petition to continue a going business.
- (10) Petition to borrow upon the general credit of the estate.
- (11) Petition for judicial proceeding[s] under chapter 11.96 RCW.
- (12) Petition to reopen an estate.
- (13) Intent to distribute estate assets, other than distributions in satisfaction of specific bequests or legacies of specific dollar amounts.
- (14) Intent to pay attorney's or personal representative's fees.

The requests shall state the post office address of the heir, devisee, distributee, legatee or creditor, or his or her lawyer, and thereafter a brief notice of the filing of any of the petitions, accounts, declaration, inventory or claim, except petitions for sale of perishable property, or other tangible personal property which will incur expense or loss by keeping, shall be addressed to the heir, devisee, distributee, legatee or creditor, or his or her lawyer, at the post office address stated in the request, and deposited in the United States post office, with prepaid postage, at least ten days before the hearing of the petition, account or claim or of the proposed distribution or payment of fees; or personal service of the notices may be made on the heir, devisee, distributee, legatee, creditor, or lawyer, not less than five days before the hearing, and the personal service shall have the same effect as deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the petition, account or claim or of the proposed distribution or payment of fees. If the notice has been regularly given, any distribution or payment of fees and any order or judgment, made in accord therewith is final and conclusive. [1984 c 149 § 8; 1965 c 145 § 11.28.240. Prior: 1941 c 206 § 1; 1939 c 132 § 1; 1917 c 156 § 64; Rem. Supp. 1941 § 1434.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Award in lieu of homestead—Notice of hearing: RCW 11.52.014.

Awards—Closure of estate: RCW 11.52.050.

Borrowing on general credit of estate—Petition—Notice—Hearing: RCW 11.56.280.

Claim of personal representative: RCW 11.40.140.

Continuation of decedent's business: RCW 11.48.025.

Purchase of claims by personal representative: RCW 11.48.080.

Report of personal representative, notice of hearing: RCW 11.76.020, 11.76.040.

Sales, exchanges, leases, mortgages and borrowing: Chapter 11.56 RCW.

Solvency, order of: RCW 11.68.010.

Chapter 11.36

QUALIFICATIONS OF PERSONAL REPRESENTATIVES

Sections

11.36.021 Trustees—Who may serve. (Effective January 1, 1985.)

11.36.021 Trustees—Who may serve. (Effective January 1, 1985.) (1) The following may serve as trustees:

- (a) Any suitable persons over the age of eighteen years, if not otherwise disqualified;
- (b) Any trust company regularly organized under the laws of this state and national banks when authorized to do so;

(c) Any nonprofit corporation, if the articles of incorporation or bylaws of that corporation permit the action and the corporation is in compliance with all applicable provisions of Title 24 RCW;

(d) Any professional service corporations regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys; and

(e) Any other entity so authorized under the laws of the state of Washington.

(2) The following are disqualified to serve as trustees:

(a) Minors, persons of unsound mind, or persons who have been convicted of any felony or a misdemeanor involving moral turpitude; and

(b) A corporation organized under Title 23A RCW that is not authorized under the laws of the state of Washington to act as a fiduciary. [1984 c 149 § 9.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.52

PROVISIONS FOR FAMILY SUPPORT

Sections

11.52.010 Award in lieu of homestead—Petition—Requirements—Amount—Time limit for filing petition.

11.52.012 Award—Effect—Conditions under which award may be denied or reduced.

11.52.020 Homestead may be awarded to survivor—Decree—Notice—Exclusions—Appointment of guardian ad litem.

11.52.022 Award in addition to homestead—Conditions under which such award may be denied or reduced.

11.52.010 Award in lieu of homestead—Petition—Requirements—Amount—Time limit for filing petition. If it is made to appear to the satisfaction of the court that no homestead has been claimed in the manner provided by law, either prior or subsequent to

the death of the person whose estate is being administered, then the court, after hearing and upon being satisfied that the funeral expenses, expenses of last sickness and of administration have been paid or provided for, and upon petition for that purpose, shall award and set off to the surviving spouse, if any, property of the estate, either community or separate, not exceeding the value of twenty-five thousand dollars at the time of death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased spouse, exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's or materialmen's liens upon the property so set off, exclusive of debts arising out of a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance and exclusive of funeral expenses, expenses of last sickness and administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse; provided that the court shall have no jurisdiction to make such award unless the petition therefor is filed with the clerk within six years from the date of the death of the person whose estate is being administered. [1984 c 260 § 17; 1974 ex.s. c 117 § 7; 1971 ex.s. c 12 § 2; 1967 c 168 § 12; 1965 c 145 § 11.52.010. Prior: 1963 c 185 § 1; 1955 c 205 § 10; 1951 c 264 § 2; 1949 c 102 § 1, part; 1945 c 197 § 1, part; 1927 c 185 § 1, part; 1917 c 156 § 103, part; Rem. Supp. 1949 § 1473, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Severability—1984 c 260: See RCW 26.18.900.

Application, construction—**Severability**—**Effective date**—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Severability—1971 ex.s. c 12: See note following RCW 6.12.050.

11.52.012 Award—Effect—Conditions under which award may be denied or reduced. Such award shall be made by an order or judgment of the court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates: *Provided*, That no property of the estate shall be awarded or set off, as provided in RCW 11.52.010 through 11.52.024, as now or hereafter amended, to a surviving spouse who has feloniously killed the deceased spouse: *Provided further*, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) if such surviving spouse or minor children are entitled to receive property not subject to probate, including insurance, by reason of the death of the deceased spouse in the sum of twenty-five thousand dollars, or more, then the award in lieu of homestead and exemptions shall lie in the discretion of the court, and that whether there shall be an award and the

amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable but not in excess of the award provided herein. [1984 c 260 § 18; 1977 ex.s. c 234 § 9; 1974 ex.s. c 117 § 8; 1965 c 145 § 11.52.012. Prior: 1951 c 264 § 3; 1949 c 102 § 1, part; 1945 c 197 § 1, part; 1927 c 185 § 1, part; 1917 c 156 § 103, part; Rem. Supp. 1949 § 1473, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Severability—1984 c 260: See RCW 26.18.900.

Application, effective date—**Severability**—1977 ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—**Severability**—**Effective date**—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Inheritance rights of slayers: Chapter 11.84 RCW.

11.52.020 Homestead may be awarded to survivor—Decree—Notice—Exclusions—Appointment of guardian ad litem. In event a homestead has been, or shall be selected in the manner provided by law, whether the selection of such homestead results in vesting the complete or partial title in the survivor, it shall be the duty of the court, upon petition of any person interested, and upon being satisfied that the value thereof does not exceed twenty-five thousand dollars at the time of the death, exclusive of general taxes and special assessments which were liens at the time of the death of the deceased and exclusive of the unpaid balance of any contract to purchase, mortgage, or mechanic's, laborer's, or materialmen's liens thereon, and exclusive of funeral expenses, expenses of last sickness and of administration, which expenses may be deducted from the gross value in determining the value to be set off to the surviving spouse, to enter a decree, upon notice as provided in RCW 11.52.014 or upon longer notice if the court so orders, setting off and awarding such homestead to the survivor, thereby vesting the title thereto in fee simple in the survivor: *Provided*, That if there be any incompetent heirs of the decedent, the court shall appoint a guardian ad litem for such incompetent heir who shall appear at the hearing and represent the interest of such incompetent heir. [1984 c 260 § 19; 1974 ex.s. c 117 § 9; 1971 ex.s. c 12 § 3; 1967 c 168 § 13; 1965 c 145 § 11.52.020. Prior: 1963 c 185 § 2; 1955 c 205 § 11; 1951 c 264 § 7; 1949 c 102 § 2, part; 1945 c 198 § 1, part; 1927 c 104 § 1, part; 1917 c 156 § 104, part; Rem. Supp. 1949 § 1474, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Severability—1984 c 260: See RCW 26.18.900.

Application, construction—**Severability**—**Effective date**—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Severability—1971 ex.s. c 12: See note following RCW 6.12.050.

Homesteads: Chapter 6.12 RCW.

11.52.022 Award in addition to homestead—Conditions under which such award may be denied or reduced. If the value of the homestead, exclusive of all such liens, be less than twenty-five thousand dollars, the

court, upon being satisfied that the funeral expenses, expenses of last sickness and of administration, have been paid or provided for, shall set off and award additional property, either separate or community, in lieu of such deficiency, so that the value of the homestead, exclusive of all such liens and expenses when added to the value of the other property awarded, exclusive of all such liens and expenses shall equal twenty-five thousand dollars: *Provided*, That if it shall appear to the court, either (1) that there are children of the deceased by a former marriage or by adoption prior to decedent's marriage to petitioner, or (2) that the petitioning surviving spouse has abandoned his or her minor children or wilfully and wrongfully failed to provide for them, or (3) that such surviving spouse is, or any minor child entitled to an award under RCW 11.52.030 is, entitled to receive property not subject to probate, including insurance by reason of the death of the deceased spouse in the sum of twenty-five thousand dollars, or more, then the award of property in addition to the homestead, where the homestead is of less than twenty-five thousand dollars in value, shall lie in the discretion of the court, and that whether there shall be an award in addition to the homestead and the amount thereof shall be determined by the court, which shall enter such decree as shall be just and equitable, but not in excess of the award provided herein. [1984 c 260 § 20; 1977 ex.s. c 234 § 10; 1974 ex.s. c 117 § 10; 1971 ex.s. c 12 § 4; 1965 c 145 § 11.52.022. Prior: 1963 c 185 § 3; 1951 c 264 § 8; 1949 c 102 § 2, part; 1945 c 198 § 1, part; 1927 c 104 § 1, part; 1917 c 156 § 104, part; Rem. Supp. 1949 § 1474, part; prior: 1891 c 155 § 24, part; 1886 p 170 § 1, part; 1883 p 44 § 1, part; Code 1881 § 1460, part; 1877 p 209 § 3, part; 1873 p 283 § 146, part; 1854 p 279 § 71, part.]

Severability—1984 c 260: See RCW 26.18.900.

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

Severability—1971 ex.s. c 12: See note following RCW 6.12.050.

Chapter 11.68

SETTLEMENT OF ESTATES WITHOUT ADMINISTRATION

Sections

- | | |
|-----------|---|
| 11.68.090 | Powers of personal representative under nonintervention will—Scope—Presumption of necessity. (Effective January 1, 1985.) |
| 11.68.110 | Declaration of completion of probate—Contents—Filing—Form—Notice—Waiver of notice. (Effective January 1, 1985.) |

11.68.090 Powers of personal representative under nonintervention will—Scope—Presumption of necessity. (Effective January 1, 1985.) Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise do anything a trustee may do under chapters 11.98, 11.100, and 11.102 RCW with regard to the

assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Any party to any such transaction and his or her successors in interest shall be entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate. [1984 c 149 § 10; 1974 ex.s. c 117 § 21.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.68.110 Declaration of completion of probate—Contents—Filing—Form—Notice—Waiver of notice. (Effective January 1, 1985.) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration to that effect, which declaration shall state as follows:

(1) The date of the decedent's death, and the decedent's residence at the time of death, whether or not the decedent died testate or intestate, and if testate, the date of the decedent's last will and testament and the date of the order admitting the will to probate;

(2) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of state inheritance and federal estate tax due as the result of the decedent's death has been determined, settled, and paid;

(3) The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(4) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(5) The amount of fees paid or to be paid to each of the following: (a) Personal representative or representatives, (b) lawyer or lawyers, (c) appraiser or appraisers, and (d) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after

the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.

Within five days of the date of the filing of the declaration of completion, the personal representative or the representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent (who has not waived notice of said filing, in writing, filed in the cause) together with a notice which shall be substantially as follows:

**CAPTION NOTICE OF FILING OF
OF DECLARATION OF COMPLETION
CASE OF PROBATE**

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the _____ day of _____, 19__; unless you shall file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

Dated this _____ day of _____, 19__.

Personal Representative

If all heirs, devisees, and legatees of the decedent waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative. [1984 c 149 § 11; 1977 ex.s. c 234 § 26; 1974 ex.s. c 117 § 23.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

**Chapter 11.88
GUARDIANSHIP—APPOINTMENT,
QUALIFICATION, REMOVAL OF GUARDIANS
AND LIMITED GUARDIANS**

Sections

- 11.88.010 Authority to appoint guardians—Definitions—Venue—Nomination by principal. (Effective January 1, 1985.)
- 11.88.040 Notice and hearing, when required—Service—Procedure. (Effective January 1, 1985.)

Adult dependent persons, abuse: Chapter 26.44 RCW.

11.88.010 Authority to appoint guardians—Definitions—Venue—Nomination by principal. (Effective January 1, 1985.) (1) The superior court of each county shall have power to appoint guardians for the persons and estates, or either thereof, of incompetent persons, and guardians for the estates of all such persons who are nonresidents of the state but who have property in such county needing care and attention.

An "incompetent" is any person who is either:

(a) Under the age of majority, as defined in RCW 11.92.010, or

(b) Incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his property or caring for himself or both.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of disabled persons, who by reason of their disability have need for protection and assistance, but who cannot be found to be fully incompetent, upon investigation as provided by RCW 11.88-.090 as now or hereafter amended. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and disabilities on a disabled person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incompetent nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

For the purposes of chapters 11.88 and 11.92 RCW the term "disabled person" means an individual who is in need of protection and assistance by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, but cannot be found to be fully incompetent.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incompetent or disabled person is domiciled, or if such person is a resident of a state institution for developmentally disabled persons, in either the county wherein such institution is located, the county of domicile, or the county wherein a parent of the alleged incompetent or disabled person is domiciled.

(4) Under RCW 11.94.010, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. [1984 c 149 § 176; 1977 ex.s. c 309 § 2; 1975 1st ex.s. c 95 § 2; 1965 c 145 § 11.88.010. Prior: 1917 c 156 § 195; RRS § 1565; prior: Code 1881 § 1604; 1873 p 314 § 299; 1855 p 15 § 1.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1977 ex.s. c 309: See note following RCW 11.88.005.

11.88.040 Notice and hearing, when required—Service—Procedure. (Effective January 1, 1985.) Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given personally to the alleged incompetent or disabled person, if over fourteen years of age.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by personal service in the manner provided for services of summons, to the following:

(1) The alleged incompetent, disabled person, or minor, if under fourteen years of age;

(2) A parent, if the alleged incompetent or disabled person is a minor, and the spouse of the alleged incompetent or disabled person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incompetent or disabled person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing. If the petition is by a parent asking for his appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition be accompanied by the written consent of a minor of the age of fourteen years or upward, consenting to the appointment of the guardian or limited guardian asked for, or if the petition be by a nonresident guardian of any minor or incompetent or disabled person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

The alleged incompetent or disabled person shall be present in court at the final hearing on the petition: *Provided*, That this requirement may be waived at the discretion of the court for good cause shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no

guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incompetent or disabled person and conduct the final hearing in the presence of the alleged incompetent or disabled person. Final hearings on the petition may be held in closed court without admission of any person other than those necessary to the action or proceeding.

If presence of the alleged incompetent or disabled person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition. [1984 c 149 § 177; 1977 ex.s. c 309 § 4; 1975 1st ex.s. c 95 § 5; 1969 c 70 § 1; 1965 c 145 § 11.88.040. Prior: 1927 c 170 § 2; 1923 c 142 § 4; 1917 c 156 § 198; RRS § 1568; prior: 1909 c 118 § 2; 1903 c 130 §§ 2, 3.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1977 ex.s. c 309: See note following RCW 11.88.005.

Waiver of notice: RCW 11.16.083.

Chapter 11.92

GUARDIANSHIP—POWERS AND DUTIES OF GUARDIAN OR LIMITED GUARDIAN

Sections

11.92.040	Duties of guardian or limited guardian in general. (Effective January 1, 1985.)
11.92.140	Petition of guardian for court authorization of actions regarding guardianship funds—Application of funds. (Effective January 1, 1985.)
11.92.150	Request for special notice of proceedings. (Effective January 1, 1985.)

11.92.040 Duties of guardian or limited guardian in general. (Effective January 1, 1985.) It shall be the duty of the guardian or limited guardian:

(1) To make out and file within three months after his or her appointment a verified inventory of all the property of the incompetent or disabled person which comes to his or her possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within thirty days after the anniversary date of the guardian's or limited guardian's appointment, and also within thirty days after termination of the appointment, a written verified account of the administration: *Provided*, That the court in its discretion may allow reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of the substantial increase or change;

(3) Consistent with the powers granted by the court, if he or she is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests,

and provide timely, informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. As provided in RCW 11.88.125 as now or hereafter amended, the standby guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. The guardian or limited guardian of the person may be required to report the condition of his or her incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct: *Provided*, That no guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed: *Provided further*, That nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Amputation;
- (d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian, limited guardian, or standby guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved that procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended;

(4) If he or she is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules

applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period not exceeding one year following the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person: *Provided, however*, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incompetent or disabled person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof. [1984 c 149 § 12; 1979 c 32 § 2; 1977 ex.s. c 309 § 13; 1975 1st ex.s. c 95 § 20; 1965 c 145 § 11.92.040. Prior: 1957 c 64 § 1; 1955 c 205 § 15; 1941 c 83 § 1; 1917 c 156 § 205; Rem. Supp. 1941 § 1575; prior: 1895 c 42 § 1; Code 1881 § 1614.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1977 ex.s. c 309: See note following RCW 11.88.005.

Compulsory school attendance law, duty to comply with: RCW 28A.27.010.

Disabled person, defined: RCW 11.88.010.

11.92.140 Petition of guardian for court authorization of actions regarding guardianship funds—Application of funds. (Effective January 1, 1985.) The court, upon the petition of a guardian of the estate of an incompetent or disabled person (collectively hereafter referred to in this section as "incompetent"), other than the guardian of a minor, and after such notice as the court directs and other notice to all persons interested as required by chapter 11.96 RCW, may authorize the guardian to take any action, or to apply funds not required for the incompetent's own maintenance and support, in any fashion the court approves as being in keeping with the incompetent's wishes so far as they can be ascertained and as designed to minimize insofar as possible current or prospective state or federal income and estate taxes, and to provide for gifts to such charities, relatives, and friends as would be likely recipients of donations from the incompetent.

The action or application of funds may include but shall not be limited to the making of gifts, to the conveyance or release of the incompetent's contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety, to the exercise or release of the incompetent's powers as donee of a power of appointment, the making of contracts, the creation of revocable or irrevocable trusts of property of the incompetent's estate which may extend beyond the incompetent's disability or life, the exercise of options of the incompetent to purchase securities or other property, the exercise of the incompetent's right to elect options and to change beneficiaries under insurance and annuity policies and the surrendering of policies for their cash value, the exercise of the incompetent's right to any elective share in the estate of the incompetent's deceased spouse, and the renunciation or disclaimer of any interest acquired by testate or intestate succession or by inter vivos transfer.

The guardian in the petition shall briefly outline the action or application of funds for which approval is sought, the results expected to be accomplished thereby and the tax savings expected to accrue. The proposed action or application of funds may include gifts of the incompetent's personal or real property. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the incompetent, or may be made to individuals or charities in which the incompetent is believed to have an interest. Gifts may or may not, in the discretion of the court, be treated as advancements to donees who would otherwise inherit property from the incompetent under the incompetent's will or under the laws of descent and distribution. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the incompetent insofar as the intentions can be ascertained, and if the incompetent's intentions cannot be ascertained, the incompetent will be presumed to favor reduction in the incidence of the various forms of taxation and the partial distribution of the incompetent's estate as provided in this section. The guardian shall not, however, be required to include as a beneficiary any person whom there is reason to believe

would be excluded by the incompetent. No guardian may be required to file a petition as provided in this section, and a failure or refusal to so petition the court does not constitute a breach of the guardian's fiduciary duties. [1984 c 149 § 13.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.92.150 Request for special notice of proceedings. (Effective January 1, 1985.) At any time after the issuance of letters of guardianship in the estate of any incompetent or disabled person, any person interested in the estate, or in the incompetent or disabled person, or any relative of the incompetent or disabled person, or any authorized representative of any agency, bureau, or department of the United States government from or through which any compensation, insurance, pension or other benefit is being paid, or is payable, may serve upon the guardian or limited guardian, or upon the attorney for the guardian or limited guardian, and file with the clerk of the court where the administration of the guardianship or limited guardianship estate is pending, a written request stating that special written notice is desired of any or all of the following matters, steps or proceedings in the administration of the estate:

- (1) Filing of petition for sales, exchanges, leases, mortgages, or grants of easements, licenses, or similar interests in any property of the estate.
- (2) Filing of all intermediate or final accountings or accountings of any nature whatsoever.
- (3) Petitions by the guardian or limited guardian for family allowances or allowances for the incompetent or disabled person or any other allowance of every nature from the funds of the estate.
- (4) Petitions for the investment of the funds of the estate.
- (5) Petition to terminate guardianship or limited guardianship or petition for adjudication of competency.
- (6) Petition for judicial proceedings under chapter 11.96 RCW.

The request for special written notice shall designate the name, address and post office address of the person upon whom the notice is to be served and no service shall be required under this section and RCW 11.92.160 as now or hereafter amended other than in accordance with the designation unless and until a new designation has been made.

When any account, petition, or proceeding is filed in the estate of which special written notice is requested, the court shall fix a time for hearing which shall allow at least ten days for service of the notice before the hearing; and notice of the hearing shall be served upon the person designated in the written request at least ten days before the date fixed for the hearing. The service may be made by leaving a copy with the person designated, or that person's authorized representative, or by mailing through the United States mail, with postage prepaid to the person and place designated. [1984 c 149 § 14; 1975 1st ex.s. c 95 § 30; 1969 c 18 § 1; 1965 c 145 § 11.92.150. Prior: 1925 ex.s. c 104 § 1; RRS § 1586-1.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.93

UNIFORM GIFTS TO MINORS ACT

Sections

11.93.010	Definitions. (Effective January 1, 1985.)
11.93.020	Manner of making or providing for gift. (Effective January 1, 1985.)
11.93.030	Effect of gift. (Effective January 1, 1985.)
11.93.040	Duties and powers of custodian. (Effective January 1, 1985.)
11.93.050	Custodian's expenses, compensation, bond, and liabilities. (Effective January 1, 1985.)
11.93.060	Exemption of third persons from liability. (Effective January 1, 1985.)
11.93.070	Resignation, death, or removal of custodian— Bond—Appointment of successor custodian. (Effective January 1, 1985.)
11.93.080	Accounting by custodian. (Effective January 1, 1985.)
11.93.900	Short title. (Recodification effective January 1, 1985.)
11.93.910	Construction—1959 c 202. (Recodification effective January 1, 1985.)
11.93.911	Construction—1967 ex.s. c 88. (Recodification effective January 1, 1985.)
11.93.912	Custodianships established prior to January 1, 1985—Construction. (Effective January 1, 1985.)
11.93.920	Severability—1959 c 202. (Recodification effective January 1, 1985.)

11.93.010 Definitions. (Effective January 1, 1985.)

In this chapter, unless the context otherwise requires:

(1) A "bank" is a bank, trust company, national banking association, or mutual savings bank.

(2) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(3) "Court" means the superior courts of the state of Washington.

(4) The "custodial property" includes:

(a) Any property transferred to the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

(b) The income from the custodial property; and

(c) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such custodial property.

(5) A "custodian" is a person who is eighteen years or older and is designated as custodian in a manner prescribed in this chapter; the term includes a successor custodian.

(6) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or credit union chartered and supervised under the laws of a state; an "insured financial institution" is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in

part, insured by the federal deposit insurance corporation, or by the federal savings and loan insurance corporation, or by a deposit insurance fund approved by this state.

(7) A "guardian" of a minor means the general guardian, guardian, tutor or curator of the minor's property, or estate appointed or qualified by a court of this state or another state.

(8) An "issuer" is a person who places or authorizes the placing of his or her name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his or her property or in an enterprise or to evidence his or her duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(9) A "legal representative" of a person is his or her personal representative, executor or administrator, general guardian, guardian, committee, conservator, tutor, or curator of his or her property or estate.

(10) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this state on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this chapter or on the life of a member of the minor's family.

(11) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption, a stepparent or person who has raised a child without the formality of a guardianship, or close family friend.

(12) A "minor" is a person who has not attained the age of twenty-one years.

(13) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, any interest in a general or limited partnership, collateral trust certificate, transferable share, voting trust certificate, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(14) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(15) A "trust company" is a bank or corporation organized under the laws of the state of Washington that is authorized to engage in trust business.

(16) A "real property interest" includes any note, mortgage, contract to purchase or sell real property, option to purchase or to sell real property, deed evidencing any title to or interest in real property, or, in general, any interest or instrument commonly recognized as evidencing or purporting to evidence an interest in real property, however minimal. The term does not include a "security" within the definition set forth in subsection (13) of this section. [1984 c 149 § 16; 1971 ex.s. c 292 § 30; 1967 ex.s. c 88 § 1; 1959 c 202 § 1. Formerly RCW 21.24.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

Effective date—1967 ex.s. c 88: "The effective date of this 1967 act is July 1, 1967." [1967 ex.s. c 88 § 20.] This applies to RCW 21.24.010 through 21.24.040, 21.24.060, 21.24.070, 21.24.091 and 21.25.010 through 21.25.900.

11.93.020 Manner of making or providing for gift. (Effective January 1, 1985.) (1) A person who is eighteen years or older may, outright or by a trust agreement executed during his or her lifetime or by will, make or provide for a gift of tangible or intangible personal property, including securities, money, life insurance policies, annuity contracts, or real property interests to a person who is a minor on the date of the gift or distribution:

(a) If the subject of the gift is a security in registered form, by registering it in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(b) If the subject of the gift is a security not in registered form, by delivering it to a person who is eighteen years or older other than the donor or a trust company accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

**"GIFT UNDER THE WASHINGTON UNIFORM
GIFTS TO MINORS ACT**

I, (name of donor), hereby deliver to (name of custodian) as custodian for (name of minor) under the Washington uniform gifts to minors act, the following property: (Insert an appropriate description of the tangible or intangible property delivered sufficient to identify it or them) ----- (signature of donor) (name of custodian) hereby acknowledges receipt of the above described property as custodian for the above minor under the Washington uniform gifts to minors act.
Dated: ----- (signature of custodian)";

(c) If the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, another

person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(d) If the subject of the gift is a real property interest and constitutes a recordable interest or charge in or against real property in the records of the county auditor or recorder, by registering it in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act";

(e) If the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another person who is eighteen years or older, or a trust company, followed, in substance, by the words: "as custodian for (name of minor) under the Washington uniform gifts to minors act";

(f) If the gift is by will or as a distribution under a trust agreement, by the legal representative or trustee delivering the subject of the gift to the person, who is eighteen years or older, or a trust company designated by the decedent or settlor to serve as custodian for the minor under the Washington uniform gifts to minors act or similar uniform act of the domicile of the designated custodian and causing the subject of the gift to be registered in the name of that custodian, followed, in substance, by the words: "As custodian for (name of minor) under the Washington (or, alternatively, state of the custodian's domicile) uniform gifts to minor's act." If the decedent or settlor fails to designate a specific custodian or if the designated custodian dies or is unable or unwilling to serve, the legal representative, with the approval of the court having jurisdiction over the decedent's estate, or the trustee may designate a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company as custodian. The legal representative or trustee may designate himself or herself as custodian, provided he or she falls within the class of persons or entities permitted in this subsection. The custodian's receipt constitutes a sufficient release and discharge of further accountability by the legal representative or trustee for the gift and acceptance of the custodianship by the custodian.

(2) Each gift made in a manner prescribed in subsection (1) of this section may be made to only one minor and only one person may be the custodian.

(3) A donor who makes a gift to a minor in a manner prescribed in subsection (1) of this section shall promptly do all things within his or her power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his or her designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

(4) The legal representative of an estate to whom a certificate of qualification, or letters testamentary or of administration are issued may, with the approval of the

court having jurisdiction over the decedent's estate, or the trustee of a trust of which a minor is a distributee or beneficiary may pay or transfer to a custodian for the minor under this chapter or a similar uniform act of the jurisdiction in which the minor may be domiciled, in the form and manner prescribed in subsection (1) (a) through (e) of this section or comparable provisions of the uniform act of the other jurisdiction, any money, security, or other property qualifying for custodial gifts which is distributable to the minor. The legal representative or trustee may make distribution in this manner if the legal representative or the trustee deems it to be in the best interests of the minor, except where the decedent, settlor, or court authorizing the distribution has expressly directed that distribution of the property due that minor shall not be made in the manner provided for in this subsection. The legal representative, with the approval of the court having jurisdiction over the decedent's estate, or the trustee shall designate a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company as custodian. The legal representative or trustee may designate himself or herself as custodian, provided he or she falls within the class of persons or entities permitted in this subsection. This chapter governs the custodianship in the same manner as though the legal representative or trustee were the donor. The custodian's receipt constitutes a sufficient release of the transferor and discharge of further accountability by the legal representative or trustee for the property distributed and acceptance of the custodianship by the custodian.

(5) Only property that could be the subject of a lifetime gift under this chapter may be distributed under subsections (1)(f) and (4) of this section.

(6) This section is applicable to gifts made before or after January 1, 1985, and regardless of whether the persons who made the gifts are alive on that date. [1984 c 149 § 17; 1967 ex.s. c 88 § 2; 1959 c 202 § 2. Formerly RCW 21.24.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.030 Effect of gift. (Effective January 1, 1985.) (1) A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, real property, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

(2) By making a gift in a manner prescribed in this chapter, the donor incorporates in the gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this chapter. [1984 c 149 § 18; 1967 ex.s. c 88 § 3; 1959 c 202 § 3. Formerly RCW 21.24.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.040 Duties and powers of custodian. (Effective January 1, 1985.) (1) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(2) The custodian shall pay over to the minor for expenditure by the minor, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in the custodian's discretion deems suitable and proper, with or without court order, with or without regard to the duty of the custodian or of any other person to support the minor or his or her ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(3) The court, on the petition of a parent or guardian of the minor or of the minor, if the minor has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by the minor or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(4) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on attaining the age of twenty-one years, or, if the minor dies before attaining the age of twenty-one years, the custodian shall thereupon deliver or pay it over to the estate of the minor.

(5) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent person of discretion and intelligence who is seeking a reasonable income and the preservation of capital, except that the custodian may, in his or her discretion and without liability to the minor or the minor's estate, retain a security given to the minor in a manner prescribed in this chapter or hold money so given in an account in a financial institution to which it was paid or delivered by the donor.

(6) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms the custodian deems advisable. The custodian may vote in person or by general or limited proxy a security which is custodial property. The custodian may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge, or mortgage of any property by or to such an issuer, and to any other action by such an issuer. The custodian may execute and deliver any and all instruments in writing which the custodian deems advisable to carry out any power as custodian.

(7) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for (name of minor) under the Washington uniform gifts to minors act". The custodian shall hold all money which is custodial property in an account with a broker or in an insured financial institution in the name

of the custodian, followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act". The custodian shall keep all other custodial property separate and distinct from the custodian's own property in a manner to identify it clearly as custodial property.

(8) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if the minor has attained the age of fourteen years.

(9) A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this chapter, all the rights and powers which a guardian has with respect to property not held as custodial property, and all the rights and powers of a trustee under RCW 11.98.070.

(10) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

(a) In the capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if the custodian were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom the custodian is acting; and

(b) May pay premiums on the policy or contract out of the custodial property. [1984 c 149 § 19; 1971 ex.s. c 292 § 31; 1967 ex.s. c 88 § 4; 1959 c 202 § 4. Formerly RCW 21.24.040.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

11.93.050 Custodian's expenses, compensation, bond, and liabilities. (Effective January 1, 1985.) (1) A custodian is entitled to reimbursement from the custodial property for reasonable expenses incurred in the performance of custodial duties.

(2) A custodian may act without compensation for services.

(3) Unless he or she is a donor, a custodian may receive from the custodial property reasonable compensation for his or her services determined by one of the following standards in the order stated:

- (a) A direction by the donor when the gift is made; or
- (b) An order of the court.

(4) Except as otherwise provided in this chapter, a custodian shall not be required to give a bond for the performance of his or her duties.

(5) A custodian not compensated for services is not liable for losses to the custodial property unless they result from bad faith, intentional wrongdoing, or gross negligence, or from failure to maintain the standard of prudence in investing the custodial property provided in this chapter. [1984 c 149 § 20; 1959 c 202 § 5. Formerly RCW 21.24.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.060 Exemption of third persons from liability. (Effective January 1, 1985.) No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter, or is obliged to inquire into the validity or propriety under this chapter of any instrument of instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to the custodian. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subsection (1) of RCW 11.93.070 by a minor to whom a gift has been made in a manner prescribed in this chapter, and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this chapter of the instrument of designation. [1984 c 149 § 21; 1967 ex.s. c 88 § 5; 1959 c 202 § 6. Formerly RCW 21.24.060.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.070 Resignation, death, or removal of custodian—Bond—Appointment of successor custodian. (Effective January 1, 1985.) (1) Only a member of the minor's family who is eighteen years or older, a guardian of the minor, or a trust company is eligible to become successor custodian. A custodian may designate a successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate a successor before the custodian dies or becomes legally incapacitated and the minor has attained the age of fourteen years, the minor may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties, and immunities of a custodian designated in a manner prescribed by this chapter.

(2) The designation of a successor custodian as provided in subsection (1) takes effect as to each item of the custodial property when the custodian resigns, dies, or becomes legally incapacitated and the custodian or his or her legal representative:

(a) Causes the item if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "As custodian for (name of minor) under the Washington uniform gifts to minors act"; and

(b) Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

(3) A custodian who executes an instrument of designation of a successor containing the custodian's resignation as provided in subsection (1) of this section shall promptly do all things within his or her power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his or her power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (1) of this section by the custodian or, if none, by the minor if the minor has no guardian and has attained the age of fourteen years, or in the possession and control of the guardian of the minor if the minor has a guardian. If the custodian has executed as provided in subsection (1) of this section more than one instrument of designation, the custodian's legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

(4) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (1) of this section is not eligible, dies, or becomes legally incapacitated before the minor attains the age of twenty-one years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (1) of this section, a donor, his or her legal representative, the legal representative of the custodian, or an adult member of the minor's family may petition the court for the designation of a successor custodian.

(5) A donor, the legal representative of a donor, a successor custodian, a member of the minor's family who is eighteen years or older, or a guardian of the minor or the minor if the minor has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his or her duties.

(6) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant

such relief as the court finds to be in the best interests of the minor. [1984 c 149 § 22; 1971 ex.s. c 292 § 32; 1967 ex.s. c 88 § 6; 1959 c 202 § 7. Formerly RCW 21.24.070.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

11.93.080 Accounting by custodian. (Effective January 1, 1985.) (1) The minor, if the minor has attained the age of fourteen years, or the legal representative of the minor, a member of the minor's family who is eighteen years or older, or a donor or his or her legal representative may petition the court for an accounting by the custodian or the custodian's legal representative.

(2) The court, in a proceeding under this chapter or otherwise, may require or permit the custodian or the custodian's legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof. [1984 c 149 § 23; 1959 c 202 § 8. Formerly RCW 21.24.080.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.900 Short title. (Recodification effective January 1, 1985.) This chapter may be cited as the "Washington uniform gifts to minors act". [1959 c 202 § 10. Formerly RCW 21.24.100.]

11.93.910 Construction—1959 c 202. (Recodification effective January 1, 1985.) (1) This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(2) This chapter shall not be construed as providing an exclusive method for making gifts to minors. [1959 c 202 § 9. Formerly RCW 21.24.090.]

11.93.911 Construction—1967 ex.s. c 88. (Recodification effective January 1, 1985.) The provisions of chapter 202, Laws of 1959 hereby amended as hereby amended shall be construed as a continuation of chapter 202, Laws of 1959 hereby amended according to the language employed and not as a new enactment. This amendment of chapter 202, Laws of 1959 hereby amended does not affect gifts made in a manner prescribed therein nor the powers, duties or immunities conferred by gifts in such manner upon custodians and persons dealing with custodians. The provisions of chapter 202, Laws of 1959 hereby amended as hereby amended henceforth apply, however, to all gifts made in a manner and form prescribed in chapter 202, Laws of 1959 hereby amended except insofar as such application impairs constitutionally vested rights. [1967 ex.s. c 88 § 7. Formerly RCW 21.24.091.]

11.93.912 Custodianships established prior to January 1, 1985—Construction. (Effective January 1, 1985.) All custodianships established prior to January 1,

1985, that have not been fully distributed as of that date shall not terminate upon the minor attaining the age of eighteen, but these custodianships shall remain operative until the minor reaches the age of twenty-one or sooner dies, except that, as to any custodianship established after August 9, 1971, but before January 1, 1985, a minor has the right after attaining the age of eighteen to demand delivery of all or any portion of the custodianship property. [1984 c 149 § 25.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.93.920 Severability—1959 c 202. (Recodification effective January 1, 1985.) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [1959 c 202 § 11. Formerly RCW 21.24.900.]

Chapter 11.94

POWER OF ATTORNEY

Sections

11.94.010	Designation—Authority—Effect of acts done—Appointment of guardian, effect—Accounting. (Effective January 1, 1985.)
11.94.020	Effect of death, disability or incompetence of principal—Acts without knowledge—Reliance on determination of disability or incompetence as provided in instrument. (Effective January 1, 1985.)
11.94.030	Banking transactions. (Effective January 1, 1985.)
11.94.040	Release from liability for reliance on power of attorney document. (Effective January 1, 1985.)
11.94.050	Attorney or agent granted principal's powers—Powers to be specifically provided for—Transfer of resources by principal's spouse. (Effective January 1, 1985.)
11.94.060	Conveyance or encumbrance of homestead. (Effective January 1, 1985.)

11.94.010 Designation—Authority—Effect of acts done—Appointment of guardian, effect—Accounting. (Effective January 1, 1985.) Whenever a principal designates another the attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's disability, the authority of the attorney in fact or agent is exercisable by the principal in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive have the same effect and inure to the benefit of and bind the principal or the principal's guardian or heirs, devisees, and personal

representative as if the principal were alive, competent, and not disabled. A principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification. If a guardian thereafter is appointed for the principal, the attorney in fact or agent, during the continuance of the appointment, shall account to the guardian rather than the principal. The guardian has the same power the principal would have had if the principal were not disabled or incompetent, to revoke, suspend or terminate all or any part of the power of attorney or agency. [1984 c 149 § 26; 1974 ex.s. c 117 § 52.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.94.020 Effect of death, disability or incompetence of principal—Acts without knowledge—Reliance on determination of disability or incompetence as provided in instrument. (Effective January 1, 1985.) (1) The death, disability, or incompetence of any principal who has executed a power of attorney in writing other than a power as described by RCW 11.94.010, does not revoke or terminate the agency as to the attorney in fact, agent, or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's heirs, devisees, and personal representatives.

(2) An affidavit, executed by the attorney in fact, or agent, stating that the attorney did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is, in the absence of a showing of fraud or bad faith, conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney.

(4) Any person may place reasonable reliance on any determination of disability or incompetence as provided in the instrument which specifies the time and the circumstances under which the power of attorney document becomes effective. [1984 c 149 § 27; 1977 ex.s. c 234 § 27; 1974 ex.s. c 117 § 53.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Application, effective date—Severability—1977 ex.s. c 234: See notes following RCW 11.16.083.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

11.94.030 Banking transactions. (Effective January 1, 1985.) If a principal, pursuant to RCW 11.94.010, has given a designated attorney in fact or agent all the principal's powers of absolute ownership or has used language to indicate that the attorney in fact or agent has all the powers the principal would have if alive and competent, then that language, notwithstanding chapter 30.22 RCW, includes the authority (1) to deposit and to make payments from any account in a financial institution, as defined in RCW 30.22.040, in the name of the principal, and (2) to enter any safe deposit box to which the principal has a right of access, subject to any contrary provision in any agreement governing the safe deposit box. [1984 c 149 § 28.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.94.040 Release from liability for reliance on power of attorney document. (Effective January 1, 1985.) Any person acting without negligence and in good faith in reasonable reliance on a power of attorney shall not incur any liability thereby. Unless the document contains a time limit, the length of time which has elapsed from its date of execution shall not prevent a party from reasonably relying on the document. Unless the document contains a requirement that it be filed for record to be effective, a person may place reasonable reliance on it regardless of whether it is so filed. [1984 c 149 § 29.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.94.050 Attorney or agent granted principal's powers—Powers to be specifically provided for—Transfer of resources by principal's spouse. (Effective January 1, 1985.) (1) Except as provided in subsection (2) of this section, even though a designated attorney in fact or agent has all powers of absolute ownership of the principal, or the document has language to indicate that the attorney in fact or agent shall have all the powers the principal would have if alive and competent, the attorney in fact or agent shall not have the power, unless specifically provided otherwise in the document: To make, amend, alter, or revoke any of the principal's wills, codicils, life insurance beneficiary designations, trust agreements, community property agreements; to make any gifts of property owned by the principal; to make transfers of property to any trust (whether or not created by the principal) unless the trust benefits the principal alone and does not have dispositive provisions which are different from those which would have governed the property had it not been transferred into the trust, or to disclaim property.

(2) Nothing in subsection (1) of this section prohibits a spouse of a principal from acting as an attorney in fact or as an agent to make any transfer of resources not prohibited under RCW 74.09.532 when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy. [1984 c 149 § 30.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.94.060 Conveyance or encumbrance of homestead. (Effective January 1, 1985.) If a principal, pursuant to RCW 11.94.010, has given a designated attorney in fact or agent all the principal's powers of absolute ownership or has used language to indicate that the attorney in fact or agent has all the powers the principal would have if alive and competent, then these powers include the right to convey or encumber the principal's homestead. [1984 c 149 § 31.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.95

POWERS OF APPOINTMENT

Sections

- 11.95.010 Releases. (Effective January 1, 1985.)
- 11.95.020 Releases—Partial releases. (Effective January 1, 1985.)
- 11.95.030 Releases—Delivery. (Effective January 1, 1985.)
- 11.95.040 Releases—Effect of RCW 11.95.010 through 11.95.050 on prior releases. (Effective January 1, 1985.)
- 11.95.050 Releases—Filing with secretary of state—Fee. (Recodification effective January 1, 1985.)
- 11.95.060 Exercise of powers of appointment. (Effective January 1, 1985.)
- 11.95.070 Application of chapter. (Effective January 1, 1985.)

Trust provisions may relieve trustee from duty, restriction, or liability imposed by statute: RCW 11.97.010.

11.95.010 Releases. (Effective January 1, 1985.) Any power exercisable by deed, will, or otherwise, other than a power in trust which is imperative, is releasable, either with or without consideration, by written instrument signed by the holder and delivered as hereinafter provided. [1984 c 149 § 33; 1955 c 160 § 1. Formerly RCW 64.24.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.95.020 Releases—Partial releases. (Effective January 1, 1985.) A power which is releasable may be released with respect to the whole or any part of the property subject to the power and may also be released in such manner as to reduce or limit the persons or objects, or classes of persons or objects, in whose favor the powers would otherwise be exercisable. A release of a power shall not be deemed to make imperative a power which was not imperative prior to the release, unless the instrument of release expressly so provides. [1984 c 149 § 34; 1955 c 160 § 2. Formerly RCW 64.24.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.95.030 Releases—Delivery. (Effective January 1, 1985.) In order to be effective as a release of a power, the instrument of release must be delivered to any trustee or co-trustee of the property, and the person holding the property, to which the power relates. Delivery of a

copy of the instrument of release may be made to the secretary of state, which shall from the time of delivery constitute notice of the release to all other persons. [1984 c 149 § 35; 1955 c 160 § 3. Formerly RCW 64.24.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.95.040 Releases—Effect of RCW 11.95.010 through 11.95.050 on prior releases. (Effective January 1, 1985.) The enactment of RCW 11.95.010 through 11.95.050 shall not be construed to impair the validity of any release heretofore made which was otherwise valid when executed. [1984 c 149 § 36; 1955 c 160 § 4. Formerly RCW 64.24.040.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.95.050 Releases—Filing with secretary of state—Fee. (Recodification effective January 1, 1985.) It shall be the duty of the secretary of state to mark each instrument of release filed in his office with a consecutive file number and with the date and hour of filing, and to note and index the filing in a suitable alphabetical index according to the name or names of the person or persons signing the same and containing a notation of the address or addresses of the signer or signers, if given in the instrument. The fee for filing is one dollar. The secretary of state shall deliver or mail to the person filing the instrument a receipt showing the filing number and date and hour of filing. [1955 c 160 § 5. Formerly RCW 64.24.050.]

11.95.060 Exercise of powers of appointment. (Effective January 1, 1985.) (1) The holder of a testamentary or lifetime power of appointment may exercise the power by appointing property outright or in trust and may grant further powers to appoint. The powerholder may designate the trustee, powers, situs, and governing law for property appointed in trust.

(2) The holder of a testamentary power may exercise the power only by the powerholder's last will, signed before or after the effective date of the instrument granting the power, that manifests an intent to exercise the power and that identifies the instrument granting the power and its date. Unless the person holding the property subject to the power has within six months after the holder's death received written notice that the powerholder's last will has been admitted to probate or an adjudication of testacy has been entered with respect to the powerholder's last will in some jurisdiction, the person may, until the time the notice is received, transfer the property subject to appointment on the basis that the power has not been effectively exercised. The person holding the property shall not incur liability to anyone for transfers so made. A testamentary residuary clause is not deemed the exercise of a testamentary power.

(3) The holder of a lifetime power of appointment shall exercise that power only by delivering a written instrument, signed by the holder, to the person holding the

property subject to the power. If the holder conditions the distribution of the appointed property on a future event, the written instrument may be made revocable until the event specified has occurred and shall specify the method of its revocation. If the written instrument is revoked, the holder of the power may reappoint the property that was appointed in the instrument. In the absence of signing and delivery of such a written instrument, a lifetime power is not deemed exercised. [1984 c 149 § 38.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.95.070 Application of chapter. (Effective January 1, 1985.) This chapter does not apply to any power as trustee described in and subject to RCW 11.98.019. [1984 c 149 § 39.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.96

JURISDICTION AND PROCEEDINGS

(Formerly: Appeals)

Sections	
11.96.009	Original jurisdiction in probate and trust matters—Powers of courts. (Effective January 1, 1985.)
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11.96.180	Appointment of guardians ad litem. (Effective January 1, 1985.)

11.96.009 Original jurisdiction in probate and trust matters—Powers of courts. (Effective January 1,

1985.) (1) The superior court shall have original jurisdiction over probates in the following instances:

- (a) When a resident of the state dies; or
- (b) When a nonresident of the state dies in the state; or
- (c) When a nonresident of the state dies outside the state.

(2) The superior court shall have original jurisdiction over trusts and trust matters.

(3) The superior courts in the exercise of their jurisdiction of matters of probate and trusts shall have power to probate or refuse to probate wills, appoint personal representatives of deceased, incompetent, or disabled persons and administer and settle all such estates, and administer and settle all trusts and trust matters, award processes and cause to come before them all persons whom they may deem it necessary to examine, and order and cause to be issued all such writs as may be proper or necessary, and do all things proper or incident to the exercise of such jurisdiction. [1984 c 149 § 41; 1965 c 145 § 11.02.010. Prior: 1917 c 156 § 1; RRS § 1371; prior: 1891 c 155 § 1; Code 1881 § 1299; 1873 p 253 § 3; 1863 p 199 § 3; 1860 p 167 § 3; 1854 p 309 § 3. Formerly RCW 11.02.010 and 11.16.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

"Incompetent" person defined; includes minors: RCW 11.88.010.

Judicial transfer of trust assets or administration, requirements: RCW 11.98.055.

"Personal representative" defined: RCW 11.02.005(1).

11.96.010 Recodified as RCW 11.96.160. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.96.020 Legislative intent—Powers of courts when law inapplicable, insufficient, or doubtful. (Effective January 1, 1985.) It is the intention of this title that the courts mentioned shall have full and ample power and authority to administer and settle all estates of decedents and incompetent and disabled persons in this title mentioned and to administer and settle all trusts and trust matters. If the provisions of this title with reference to the administration and settlement of such estates or trusts should in any cases and under any circumstances be inapplicable or insufficient or doubtful, the court shall nevertheless have full power and authority to proceed with such administration and settlement in any manner and way which to the court seems right and proper, all to the end that such estates or trusts may be by the court administered upon and settled. [1984 c 149 § 42; 1965 c 145 § 11.02.020. Prior: 1917 c 156 § 219; RRS § 1589. Formerly RCW 11.02.020 and 11.16.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.030 Exercise of powers—Orders, writs, process, etc. (Recodification effective January 1, 1985.) In exercising any of the jurisdiction or powers by this title given or intended to be given, the court is authorized to make, issue and cause to be filed or served, any and all

manner and kinds of orders, judgments, citations, notices, summons, and other writs and processes not inconsistent with the provisions of this title, which may be considered proper or necessary in the exercise of such jurisdiction. [1965 c 145 § 11.02.030. Prior: 1917 c 156 § 220; RRS § 1590. Formerly RCW 11.02.030 and 11.16.030.]

11.96.040 Situs of trust. (Effective January 1, 1985.) Unless otherwise provided in the instrument creating the trust, the situs of a trust is the place where the principal place of administration of the trust is located. As used in this section, the "principal place of administration of the trust" is the trustee's usual place of business where the day-to-day records pertaining to the trust are kept or the trustee's residence if the trustee has no such place of business. [1984 c 149 § 45.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.050 Venue in proceedings involving probate or trust matters. (Effective January 1, 1985.) For purposes of venue in proceedings involving probate or trusts and trust matters, the following shall apply:

(1) Proceedings under Title 11 RCW pertaining to trusts shall be commenced either:

(a) In the superior court of the county in which the situs of the trust is located as provided in RCW 11.96.040;

(b) In the superior court of the county in which a trustee resides or has its principal place of business; or

(c) With respect to testamentary trusts, in the superior court of the county where letters testamentary were granted to a personal representative, and in the absence of such letters, then in any county where letters testamentary could have been granted in accordance with subsection (2) of this section.

(2) Wills shall be proven, letters testamentary or of administration granted, and other proceedings under Title 11 RCW pertaining to probate commenced, either:

(a) In the county in which the decedent was a resident at the time of death;

(b) In the county in which the decedent died, or in which any part of the estate may be, if the decedent was not a resident of this state; or

(c) In the county in which any part of the estate may be, the decedent having died out-of-state, and not having been resident in this state at the time of death.

(3) No action undertaken is defective or invalid because of improper venue if the court has jurisdiction of the matter. [1984 c 149 § 46.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.060 Statutes of limitations—Actions involving trusts and estates. (Effective January 1, 1985.) (1) Any action against the trustee of an express trust, excluding those trusts excluded from the definition of express trusts under RCW 11.98.009, but including all express trusts, whenever executed, for any breach of fiduciary duty, must be brought within three years from

the earlier of (a) the time the alleged breach was discovered or reasonably should have been discovered, or (b) the time of termination of the trust or the trustee's repudiation of the trust.

(2) Any action by an heir, legatee, or other interested party, to whom proper notice was given if required, against a personal representative for alleged breach of fiduciary duty must be brought prior to discharge of the personal representative.

(3) The tolling provisions of RCW 4.16.190 apply to this chapter, except that the running of the statute of limitations stated in subsection (2) of this section is not tolled if the minor, incompetent, or disabled person had a guardian ad litem or a limited or general guardian of the estate to represent the person during the probate proceeding.

(4) Notwithstanding subsections (2) and (3) of this section, any cause of action against a trustee of an express trust, as provided for in subsection (1) of this section is not barred by the statute of limitations if it is brought within three years from January 1, 1985. In addition, any action as specified in subsection (2) of this section against the personal representative is not barred by this statute of limitations if it is brought within one year of January 1, 1985. [1984 c 149 § 47.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.070 Persons entitled to judicial proceedings for declaration of rights or legal relations regarding trust or estate. (Effective January 1, 1985.) A personal representative, trustee, or other fiduciary, creditor, devisee, legatee, heir, or trust beneficiary interested in the administration of a trust, or the attorney general in the case of a charitable trust under RCW 11.110.120, or of the estate of a decedent, incompetent, or disabled person, may have a judicial proceeding for the declaration of rights or legal relations in respect to the trust or estate:

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(2) To direct the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity;

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings;

(4) To confer upon the personal representatives or trustees any necessary or desirable powers not otherwise granted in the instrument or given by law that the court determines are not inconsistent with the provisions or purposes of the will or trust;

(5) To amend or conform the will or the trust instrument in the manner required to qualify the gift thereunder for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust as required by final regulations and rulings of the United States internal revenue service, in any case in which all parties interested in the trust have submitted

written agreements to the proposed changes or written disclaimer of interest; or

(6) To resolve any other matter in this title referencing this judicial proceedings section.

The provisions of this chapter apply to disputes arising in connection with estates of incompetents or disabled persons unless otherwise covered by chapters 11.88 and 11.92 RCW. [1984 c 149 § 48.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.080 Hearing on petition—Form and content of notice. (Effective January 1, 1985.) The court shall make an order fixing the time and place for hearing the petition. The court shall approve the form and content of the notice. Notice of hearing shall be signed by the clerk of the court. [1984 c 149 § 49.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.090 Power of clerk to fix dates of hearings—Exceptions. (Effective January 1, 1985.) The clerk of each of the superior courts is authorized to fix the time of hearing of all applications, petitions and reports in probate and guardianship proceedings, except the time for hearings upon show cause orders and citations and except for the time of hearings set under RCW 11.96.080. The authority herein granted is in addition to the authority vested in the superior courts and superior court commissioners. [1984 c 149 § 51; 1965 c 145 § 11.02.060. Prior: 1947 c 54 § 1; Rem. Supp. 1947 § 1590-a. Formerly RCW 11.02.060 and 11.16.110.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.100 Notice in proceedings under Title 11 RCW. (Effective January 1, 1985.) Subject to RCW 11.96.110, in all proceedings under Title 11 RCW notice shall be personally served or mailed to each trustee, personal representative, heir, beneficiary including devisees, legatees, and heirs, guardian ad litem, and person having an interest in the trust or estate whose name and address are known to the petitioner at least twenty days prior to the hearing on the petition, unless otherwise ordered by the court under RCW 11.96.080. Proof of such service or mailing shall be made by affidavit filed at or before the hearing. In addition, notice shall also be given to the attorney general if required under RCW 11.110.120. [1984 c 149 § 53.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.110 Notice constituting compliance with notice requirements of Title 11 RCW. (Effective January 1, 1985.) Notwithstanding provisions of this chapter to the contrary, there is compliance with the notice requirements of Title 11 RCW for notice to the beneficiaries of, or persons interested in an estate or a trust, or to beneficiaries or remaindermen, including all living persons who may participate in the corpus or income of the trust or estate, if notice is given as follows:

(1) If an interest in an estate or trust has been given to persons who compose a certain class upon the happening of a certain event, notice shall be given to the living persons who would constitute the class if the event had happened immediately before the commencement of the proceeding requiring notice.

(2) If an interest in an estate or trust has been given to a living person, and the same interest, or a share in it, is to pass to the surviving spouse or to persons who are, or may be, the distributees, heirs, issue, or other kindred of that living person upon the happening of a future event, notice shall be given to that living person.

(3) Except as otherwise provided in subsection (2) of this section, if an interest in an estate or trust has been given to a person, a class of persons, or both upon the happening of any future event, and the same interest or a share of such interest is to pass to another person, class of persons, or both, upon the happening of an additional future event, notice shall be given to the living person or persons who would take the interest upon the happening of the first event.

(4) Notice shall be given to persons who would not otherwise be entitled to notice by law if a conflict of interest involving the subject matter of the trust or estate proceeding exists between a person to whom notice is given and a person to whom notice need not be given under Title 11 RCW.

Any action taken by the court is conclusive and binding upon each person receiving actual or constructive notice in the manner provided in this section. [1984 c 149 § 54.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.120 Special notice. (Effective January 1, 1985.) Nothing in this chapter eliminates the requirement to give notice to a person who has requested special notice under RCW 11.28.240 or 11.92.150. [1984 c 149 § 55.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.130 Trial rules—Judgments. (Effective January 1, 1985.) All issues of fact joined in probate or trust proceedings shall be tried in conformity with the requirements of the rules of practice in civil actions. The probate or trust proceeding may be commenced as a new action or as an action incidental to an existing probate or trust proceeding. Once commenced, the action may be consolidated with an existing probate or trust proceeding or converted to a separate action upon the motion of any party for good cause shown, or by the court on its own motion. If the action is incidental to an existing proceeding, all pleadings shall set forth the caption of the existing proceeding followed by an appropriate caption designating the parties to the new proceeding. The party affirming is plaintiff, and the one denying or avoiding is defendant. If a party is entitled to a trial by jury and a jury is demanded, and the issues are not sufficiently made up by the written pleadings on file, the court, on due notice, shall settle and frame the issues to be tried.

If no jury is demanded, the court shall try the issues joined, and sign and file its findings and decision in writing, as provided for in civil actions. Judgment on the issue joined, as well as for costs, may be entered and enforced by execution or otherwise by the court as in civil actions. [1984 c 149 § 56.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.140 Costs. (Effective January 1, 1985.) Either the superior court or the court on appeal, may, in its discretion, order costs, including attorneys fees, to be paid by any party to the proceedings or out of the assets of the estate, as justice may require. [1984 c 149 § 57.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.96.150 Execution upon trust income or vested remainder—Permitted, when. (Recodification effective January 1, 1985.) Nothing in RCW 6.32.250 shall forbid execution upon the income of any trust created by a person other than the judgment debtor for debt arising through the furnishing of the necessities of life to the beneficiary of such trust; or as to such income forbid the enforcement of any order of the superior court requiring the payment of support for the children under the age of eighteen of any beneficiary; or forbid the enforcement of any order of the superior court subjecting the vested remainder of any such trust upon its expiration to execution for the debts of the remainderman. [1955 c 33 § 30.30.120. Prior: 1951 c 226 § 1. Formerly RCW 30.30.120.]

11.96.160 Appeals to supreme court or court of appeals. (Recodification effective January 1, 1985.) Any interested party may appeal to the supreme court or the court of appeals from any final order, judgment or decree of the court, and such appeals shall be in the manner and way provided by law for appeals in civil actions. [1971 c 81 § 53; 1965 c 145 § 11.96.010. Prior: 1917 c 156 § 221; RRS § 1591. Formerly RCW 11.96.010 and 11.16.040.]

Rules of court: Rules of Appellate Procedure.

11.96.170 Nonjudicial resolution of disputes—Written agreement—Appointment of special representative—Qualifications—Filing of agreement or memorandum with court—Notice of filing—Objections. (Effective January 1, 1985.) (1) If the persons listed in RCW 11.96.070 and those entitled to notice under RCW 11.96.100 and 11.96.110 agree on any matter listed in RCW 11.96.070 or any other matter in Title 11 RCW referencing this nonjudicial resolution procedure, then the agreement shall be evidenced by a written agreement executed by all necessary persons as provided in this section.

(2) If necessary, the personal representative or trustee may petition the court for the appointment of a special representative to represent a person interested in the estate or trust who is a minor, incompetent, disabled, or who is yet unborn or unascertained, or a person whose

identity or address is unknown. The special representative has authority to enter into a binding agreement on behalf of the person or beneficiary. The special representative may be appointed for more than one person or class of persons if the interests of such persons or class are not in conflict. Those entitled to receive notice for persons or beneficiaries described in RCW 11.96.110 may enter into a binding agreement on behalf of such persons or beneficiaries.

(3) The special representative shall be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative shall have no interest in any affected estate or trust, and shall not be related to any personal representative, trustee, beneficiary, or other person interested in the estate or trust. The special representative is entitled to reasonable compensation for services which shall be paid from the principal of the estate or trust whose beneficiaries are represented. Upon execution of the written agreement, the special representative shall be discharged of any further responsibility with respect to the estate or trust.

(4) The written agreement or a memorandum summarizing the provisions of the written agreement may, at the option of any person interested in the estate or trust, be filed with the court having jurisdiction over the estate or trust. The person filing the agreement or memorandum shall within five days thereof mail a copy of the agreement and a notice of the filing to each person interested in the estate or trust whose address is known. Notice shall be in substantially the following form:

CAPTION OF CASE NOTICE OF FILING OF AGREEMENT OR MEMORANDUM OF AGREEMENT

Notice is hereby given that the attached document was filed by the undersigned in the above entitled court on the _____ day of _____, 19... Unless you file a petition objecting to the agreement within 30 days of the above specified date the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust.

If you file and serve a petition within the period specified, you should ask the court to fix a time and place for the hearing on the petition and provide for at least a ten days' notice to all persons interested in the estate or trust.

DATED this _____ day of _____, 19...

(Party to the agreement)

(5) Unless a person interested in the estate or trust files a petition objecting to the agreement within thirty days of the filing of the agreement or the memorandum, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust. If all persons interested in

the estate or trust waive the notice required by this section, the agreement will be deemed approved and will be equivalent to a final order binding on all persons interested in the estate or trust effective upon the date of filing. [1984 c 149 § 61.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Dispute resolution procedures applicable to consolidation of trusts: RCW 11.98.080. determination of recipient of life insurance or retirement proceeds: RCW 11.98.170. trust gift distribution: Chapter 11.108 RCW.

11.96.180 Appointment of guardians ad litem. (Effective January 1, 1985.) (1) The court, upon its own motion or on request of a person interested in the trust or estate, at any stage of a judicial proceeding or at any time in a nonjudicial resolution procedure, may appoint a guardian ad litem to represent the interests of a minor, incapacitated, unborn, or unascertained person, or person whose identity and address are unknown, or a designated class of persons who are not ascertained or are not in being. When not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(2) For the purposes of this section, a trustee is a person interested in the trust and a personal representative is a person interested in an estate.

(3) The court appointed guardian ad litem supersedes the special representative if so provided in the court order.

(4) The court may appoint the guardian ad litem at an ex parte hearing, or the court may order a hearing as provided in RCW 11.96.070 with notice as provided in RCW 11.96.080, 11.96.100, and 11.96.110. [1984 c 149 § 62.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.97 EFFECT OF TRUST INSTRUMENT

Sections 11.97.010 Power of trustor—Trust provisions controlling. (Effective January 1, 1985.) 11.97.900 Application of chapter. (Effective January 1, 1985.)

11.97.010 Power of trustor—Trust provisions controlling. (Effective January 1, 1985.) The trustor of a trust may by the provisions of the trust relieve the trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed by chapters 11.95, 11.98, 11.100, and 11.104 RCW and RCW 11.106.020, or may alter or deny any or all of the privileges and powers conferred by those provisions; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by those provisions. If any specific provision of those chapters is in conflict with the provisions of a trust, the provisions of the trust control whether or not specific reference is made in the trust to

any of those chapters. In no event may a trustee be relieved of the duty to act in good faith and with honest judgment. [1984 c 149 § 64; 1959 c 124 § 2. Formerly RCW 30.99.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.97.900 Application of chapter. (Effective January 1, 1985.) This chapter applies to the provisions of chapters 11.95, 11.98, 11.100, and 11.104 RCW and to RCW 11.106.020. [1984 c 149 § 65.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.98 TRUSTS

Sections

- 11.98.009 Application of chapter. (Effective January 1, 1985.)
- 11.98.010 Recodified as RCW 11.98.130. (Effective January 1, 1985.)
- 11.98.016 Exercise of powers by co-trustees. (Effective January 1, 1985.)
- 11.98.019 Relinquishment of powers by co-trustee. (Effective January 1, 1985.)
- 11.98.020 Recodified as RCW 11.98.140. (Effective January 1, 1985.)
- 11.98.029 Resignation of trustee. (Recodification effective January 1, 1985.)
- 11.98.030 Recodified as RCW 11.98.150. (Effective January 1, 1985.)
- 11.98.039 Nonjudicial change of trustee—Notice—Judicial appointment or change of trustee—Liability and duties of successor fiduciary. (Effective January 1, 1985.)
- 11.98.040 Recodified as RCW 11.98.160. (Effective January 1, 1985.)
- 11.98.045 Criteria for transfer of trust assets or administration. (Effective January 1, 1985.)
- 11.98.050 Recodified as RCW 11.98.900. (Effective January 1, 1985.)
- 11.98.051 Nonjudicial transfer of trust assets or administration—Notice—Consent required. (Effective January 1, 1985.)
- 11.98.055 Judicial transfer of trust assets or administration. (Effective January 1, 1985.)
- 11.98.060 Power of successor trustee. (Recodification effective January 1, 1985.)
- 11.98.065 Change in form of corporate trustee. (Effective January 1, 1985.)
- 11.98.070 Power of trustee. (Effective January 1, 1985.)
- 11.98.080 Consolidation of trusts. (Effective January 1, 1985.)
- 11.98.090 Nonliability of third persons without knowledge of breach. (Effective January 1, 1985.)
- 11.98.100 Nonliability for action or inaction based on lack of knowledge of events. (Effective January 1, 1985.)
- 11.98.110 Contract and tort liability. (Effective January 1, 1985.)
- 11.98.130 Violation of rule against perpetuities by instrument—Periods during which trust not invalid. (Effective January 1, 1985.)
- 11.98.140 Distribution of assets and vesting of interest during period trust not invalid. (Effective January 1, 1985.)
- 11.98.150 Distribution of assets at expiration of period. (Effective January 1, 1985.)
- 11.98.160 Effective date of irrevocable inter vivos trust—Effective date of revocable inter vivos or testamentary trust. (Effective January 1, 1985.)
- 11.98.170 Designation of trustee as beneficiary of life insurance policy or retirement plan—Determination of proper recipient of proceeds—Definitions—Beneficiary

designations executed before January 1, 1985, not invalidated. (Effective January 1, 1985.)

- 11.98.900 Application of chapter. (Effective January 1, 1985.)
- 11.98.910 Severability—1959 c 124. (Recodification effective January 1, 1985.)
- 11.98.920 Short title. (Recodification effective January 1, 1985.)

Trust provisions may relieve trustee from duty, restriction, or liability imposed by statute: RCW 11.97.010.

11.98.009 Application of chapter. (Effective January 1, 1985.) Except as provided in this section, this chapter applies to express trusts executed by the trustor after June 10, 1959, and does not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, trusts created by the judgment or decree of a court not sitting in probate, liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, trusts created in deposits in any financial institution pursuant to chapter 30.22 RCW, unless any such trust which is created in writing incorporates this chapter in whole or in part. [1984 c 149 § 67; 1983 c 3 § 49; 1959 c 124 § 1. Formerly RCW 30.99.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.010 Recodified as RCW 11.98.130. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.98.016 Exercise of powers by co-trustees. (Effective January 1, 1985.) (1) Any power vested in three or more trustees jointly may be exercised by a majority of such trustees; but no trustee who has not joined in exercising a power is liable to the beneficiaries or to others for the consequences of such exercise; nor is a dissenting trustee liable for the consequences of an act in which that trustee joins at the direction of the majority of the trustees, if that trustee expressed his or her dissent in writing to each of the co-trustees at or before the time of such joinder.

(2) Where two or more trustees are appointed to execute a trust and one or more of them for any reason does not accept the appointment or having accepted ceases to be a trustee, the survivor or survivors shall execute the trust and shall succeed to all the powers, duties and discretionary authority given to the trustees jointly.

(3) An individual trustee, with a co-trustee's consent, may, by a signed, written instrument, delegate any power, duty, or authority as trustee to that co-trustee. This delegation is effective upon delivery of the instrument to that co-trustee and may be revoked at any time by delivery of a similar signed, written instrument to that co-trustee. However, if a power, duty, or authority is expressly conferred upon only one trustee, it shall not be delegated to a co-trustee. If that power, duty, or authority is expressly excluded from exercise by a trustee, it shall not be delegated to the excluded trustee.

(4) If one trustee gives written notice to all other co-trustees of an action that the trustee proposes be taken,

then the failure of any co-trustee to deliver a written objection to the proposal to the trustee, at the trustee's then address of record and within fifteen days from the date the co-trustee actually receives the notice, constitutes formal approval by the co-trustee, unless the co-trustee had previously given written notice that was unrevoked at the time of the trustee's notice, to that trustee that this fifteen-day notice provision is inoperative.

(5) As to any effective delegation made under subsection (3) of this section, a co-trustee has no liability for failure to participate in the administration of the trust.

Nothing in this section, however, otherwise excuses a co-trustee from liability for failure to participate in the administration of the trust and nothing in this section, including subsection (3) of this section, excuses a co-trustee from liability for the failure to attempt to prevent a breach of trust. [1984 c 149 § 68; 1959 c 124 § 3. Formerly RCW 30.99.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.019 Relinquishment of powers by co-trustee. (Effective January 1, 1985.) Any individual co-trustee may, by written instrument delivered to a then acting co-trustee and to the current adult income beneficiaries of the trust, relinquish to any extent and upon any terms any or all of the trustee's powers, rights, authorities, or discretions that are or may be tax sensitive in that they cause or may cause adverse tax consequences to the trustee or the trust. Any trustee not relinquishing such a power, right, authority, or discretion and upon whom it is conferred continues to have full power to exercise it. [1984 c 149 § 69.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.020 Recodified as RCW 11.98.140. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.98.029 Resignation of trustee. (Recodification effective January 1, 1985.) Upon petition of the trustee of a trust, the superior court having jurisdiction may accept his resignation and discharge him from the trust upon such notice, if any, and upon such terms as such court may require. [1959 c 124 § 4. Formerly RCW 30.99.040.]

11.98.030 Recodified as RCW 11.98.150. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.98.039 Nonjudicial change of trustee—Notice—Judicial appointment or change of trustee—Liability and duties of successor fiduciary. (Effective January 1, 1985.) (1) The beneficiaries and trustee of a trust may agree for the nonjudicial change of the trustee under RCW 11.96.170 if the governing instrument does not name a successor trustee who is willing to serve. The trustee shall give written notice of the proposed change in trustee to every beneficiary or special representative,

and to the trustor if alive. The notice shall: (a) State the name and mailing address of the trustee; (b) include a copy of the governing instrument; and (c) state the name and mailing address of the successor trustee. The notice shall advise the recipient of the right to petition for the judicial determination of the proposed change in trustee as provided in subsection (2) of this section. The notice shall include a form on which consent or objection to the proposed change in trustee may be indicated.

(2) Any beneficiary of a trust, the trustor if alive, or the trustee may petition the superior court having jurisdiction for the appointment or change of a trustee under the procedures provided in chapter 11.96 RCW (a) whenever the office of trustee becomes vacant, (b) upon filing of a petition of resignation by a trustee, or (c) for any other reasonable cause.

(3) For purposes of this section, the term fiduciary includes both trustee and personal representative.

(a) Except as otherwise provided in the governing instrument, a successor fiduciary, absent actual knowledge of a breach of fiduciary duty: (i) Is not liable for any act or omission of a predecessor fiduciary and is not obligated to inquire into the validity or propriety of any such act or omission; (ii) is authorized to accept as conclusively accurate any accounting or statement of assets tendered to the successor fiduciary by a predecessor fiduciary; and (iii) is authorized to receipt only for assets actually delivered and has no duty to make further inquiry as to undisclosed assets of the trust or estate.

(b) Nothing in this section relieves a successor fiduciary from liability for retaining improper investments, nor does this section in any way bar the successor fiduciary, trust beneficiaries, or other party in interest from bringing an action against a predecessor fiduciary arising out of the acts or omissions of the predecessor fiduciary, nor does it relieve the successor fiduciary of liability for its own acts or omissions except as specifically stated or authorized in this section. [1984 c 149 § 72; 1959 c 124 § 5. Formerly RCW 30.99.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.040 Recodified as RCW 11.98.160. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.98.045 Criteria for transfer of trust assets or administration. (Effective January 1, 1985.) (1) A trustee may transfer trust assets to a trustee in another jurisdiction or may transfer the place of administration of a trust to another jurisdiction if the trust instrument so provides or in accordance with RCW 11.98.051 or 11.98.055.

(2) Transfer under this section is permitted only if:

(a) The transfer would facilitate the economic and convenient administration of the trust;

(b) The transfer would not materially impair the interests of the beneficiaries or others interested in the trust;

(c) The transfer does not violate the terms of the trust; and

(d) The new trustee is qualified and able to administer the trust or such assets on the terms set forth in the trust.

(3) Acceptance of such transfer by a foreign corporate trustee or trust company under this section, RCW 11.98.051, or 11.98.055 shall not be construed to be doing a "trust business" as described in RCW 30.08.150(9). [1984 c 149 § 74.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.050 Recodified as RCW 11.98.900. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

11.98.051 Nonjudicial transfer of trust assets or administration—Notice—Consent required. (Effective January 1, 1985.) (1) The trustee may transfer trust assets or the place of administration in accordance with RCW 11.96.170. In addition, the trustee shall give written notice to those persons entitled to notice as provided for under RCW 11.96.100 and 11.96.110 and to the attorney general in the case of a charitable trust subject to chapter 11.110 RCW. The notice shall:

(a) State the name and mailing address of the trustee;
(b) Include a copy of the governing instrument of the trust;

(c) Include a statement of assets and liabilities of the trust dated within ninety days of the notice;

(d) State the name and mailing address of the trustee to whom the assets or administration will be transferred together with evidence that the trustee has agreed to accept the assets or trust administration in the manner provided by law of the new place of administration. The notice shall also contain a statement of the trustee's qualifications and the name of the court, if any, having jurisdiction of that trustee or in which a proceeding with respect to the administration of the trust may be heard;

(e) State the facts supporting the requirements of RCW 11.98.045(2);

(f) Advise the beneficiaries of the right to petition for judicial determination of the proposed transfer as provided in RCW 11.98.055; and

(g) Include a form on which the recipient may indicate consent or objection to the proposed transfer.

(2) If the trustee receives written consent to the proposed transfer from all persons entitled to notice, the trustee may transfer the trust assets or place of administration as provided in the notice. Transfer in accordance with the notice is a full discharge of the trustee's duties in relation to all property referred to therein. Any person dealing with the trustee is entitled to rely on the authority of the trustee to act and is not obliged to inquire into the validity or propriety of the transfer. [1984 c 149 § 75.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.055 Judicial transfer of trust assets or administration. (Effective January 1, 1985.) (1) Any trustee, beneficiary, or beneficiary representative may petition

the superior court of the county of the situs of the trust for a transfer of trust assets or transfer of the place of administration in accordance with chapter 11.96 RCW.

(2) At the conclusion of the hearing, if the court finds the requirements of RCW 11.98.045(2) have been satisfied, it may direct the transfer of trust assets or the place of trust administration on such terms and conditions as it deems appropriate. The court in its discretion may provide for payment from the trust of reasonable fees and expenses for any party to the proceeding. Delivery of trust assets in accordance with the court's order is a full discharge of the trustee's duties in relation to all transferred property. [1984 c 149 § 76.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.060 Power of successor trustee. (Recodification effective January 1, 1985.) A successor trustee of a trust shall succeed to all the powers, duties and discretionary authority of the original trustee. [1959 c 124 § 6. Formerly RCW 30.99.060.]

11.98.065 Change in form of corporate trustee. (Effective January 1, 1985.) Any appointment of a specific bank, trust company, or corporation as trustee is conclusively presumed to authorize the appointment or continued service of that entity's successor in interest in the event of a merger, acquisition, or reorganization, and no court proceeding is necessary to affirm the appointment or continuance of service. [1984 c 149 § 78.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.070 Power of trustee. (Effective January 1, 1985.) A trustee, or the trustees jointly, of a trust, in addition to the authority otherwise given by law, have discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund of the trust to be held and administered under the provisions of the trust;

(2) Sell on credit;

(3) Grant, purchase or exercise options;

(4) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights;

(5) Deposit stock or other corporate securities with any protective or other similar committee;

(6) Assent to corporate sales, leases, and encumbrances;

(7) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(8) Register and hold any stocks, securities, or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees are liable for any loss occasioned by the acts of any nominee;

(9) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable

period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements;

(10) Subdivide, develop, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property, and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(11) Compromise or submit claims to arbitration;

(12) Borrow money, secured or unsecured, from any source, including a corporate trustee's banking department, or from the individual trustee's own funds;

(13) Make loans, either secured or unsecured, at such interest as the trustee may determine to any person, including any beneficiary of a trust, except that no trustee who is a beneficiary of a trust may participate in decisions regarding loans to such beneficiary from the trust;

(14) Determine the hazards to be insured against and maintain insurance for them;

(15) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; make nonpro rata distributions of property in kind; allocate particular assets or portions of them or undivided interests in them to any one or more of the beneficiaries without regard to the income tax basis of specific property allocated to any beneficiary and without any obligation to make an equitable adjustment;

(16) Pay any income or principal distributable to or for the use of any beneficiary, whether that beneficiary is under legal disability, to the beneficiary or for the beneficiary's use to the beneficiary's parent, guardian, custodian under the uniform gifts to minors act of any state, person with whom he resides, or third person;

(17) Change the character of or abandon a trust asset or any interest in it;

(18) Mortgage, pledge the assets or the credit of the trust estate, or otherwise encumber trust property, including future income, whether an initial encumbrance or a renewal or extension of it, for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(19) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing structures, and make any improvements to trust property;

(20) Create restrictions, easements, including easements to public use without consideration, and other servitudes;

(21) Manage any business interest, regardless of form, received by the trustee from the trustor of the trust, as a result of the death of a person, or by gratuitous transfer from any other transferor, and with respect to the business interest, have the following powers:

(a) To hold, retain, and continue to operate that business interest solely at the risk of the trust, without need to diversify and without liability on the part of the trustee for any resulting losses;

(b) To enlarge or diminish the scope or nature or the activities of any business;

(c) To authorize the participation and contribution by the business to any employee benefit plan, whether or not qualified as being tax deductible, as may be desirable from time to time;

(d) To use the general assets of the trust for the purpose of the business and to invest additional capital in or make loans to such business;

(e) To endorse or guarantee on behalf of the trust any loan made to the business and to secure the loan by the trust's interest in the business or any other property of the trust;

(f) To leave to the discretion of the trustee the manner and degree of the trustee's active participation in the management of the business, and the trustee is authorized to delegate all or any part of the trustee's power to supervise, manage, or operate to such persons as the trustee may select, including any partner, associate, director, officer, or employee of the business; and also including electing or employing directors, officers, or employees of the trustee to take part in the management of the business as directors or officers or otherwise, and to pay that person reasonable compensation for services without regard to the fees payable to the trustee;

(g) To engage, compensate, and discharge or to vote for the engaging, compensating, and discharging of managers, employees, agents, lawyers, accountants, consultants, or other representatives, including anyone who may be a beneficiary of the trust or any trustee;

(h) To cause or agree that surplus be accumulated or that dividends be paid;

(i) To accept as correct financial or other statements rendered by any accountant for any sole proprietorship or by any partnership or corporation as to matters pertaining to the business except upon actual notice to the contrary;

(j) To treat the business as an entity separate from the trust, and in any accounting by the trustee it is sufficient if the trustee reports the earning and condition of the business in a manner conforming to standard business accounting practice;

(k) To exercise with respect to the retention, continuance, or disposition of any such business all the rights and powers that the trustor of the trust would have if alive at the time of the exercise, including all powers as are conferred on the trustee by law or as are necessary to enable the trustee to administer the trust in accordance with the instrument governing the trust, subject to any limitations provided for in the instrument; and

(l) To satisfy contractual and tort liabilities arising out of an unincorporated business, first out of the business and second out of the estate or trust, but in no event may there be a liability of the trustee, and if the trustee is liable, the trustee is entitled to indemnification from the business and the trust, respectively;

(22) Participate in the establishment of, and thereafter in the operation of, any business or other enterprise according to subsection (21) of this section except that the trustee shall not be relieved of the duty to diversify;

(23) Cause or participate in, directly or indirectly, the formation, reorganization, merger, consolidation, dissolution, or other change in the form of any corporate or

other business undertaking where trust property may be affected and retain any property received pursuant to the change;

(24) Limit participation in the management of any partnership and act as a limited or general partner;

(25) Charge profits and losses of any business or farm operation to the trust estate as a whole and not to the trustee; make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(26) Pay reasonable compensation to the trustee or co-trustees considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the trustee;

(27) Employ persons, including lawyers, accountants, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's duties or to perform any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except a trustee may not delegate all of the trustee's duties and responsibilities, and except that this employment does not relieve the trustee of liability for the discretionary acts of a person, which if done by the trustee, would result in liability to the trustee, or of the duty to select and retain a person with reasonable care;

(28) Appoint an ancillary trustee or agent to facilitate management of assets located in another state or foreign country;

(29) Retain and store such items of tangible personal property as the trustee selects and pay reasonable storage charges thereon from the trust estate;

(30) Issue proxies to any adult beneficiary of a trust for the purpose of voting stock of a corporation acting as the trustee of the trust;

(31) Place all or any part of the securities at any time held by the trustee in the care and custody of any bank, trust company, or member firm of the New York Stock Exchange with no obligation while the securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank, trust company, or firm, so long as the bank, trust company, or firm was selected and retained with reasonable care, and have all stocks and registered securities placed in the name of the bank, trust company, or firm, or in the name of its nominee, and to appoint such bank, trust company, or firm agent as attorney to collect, receive, receipt for, and disburse any income, and generally may perform, but is under no requirement to perform, the duties and services incident to a so-called "custodian" account;

(32) Determine at any time that the corpus of any trust is insufficient to implement the intent of the trust, and upon this determination by the trustee, terminate the trust by distribution of the trust to the current income beneficiary or beneficiaries of the trust or their legal representatives, except that this determination may only be made by the trustee if the trustee is neither the grantor nor the beneficiary of the trust, and if the trust has no charitable beneficiary;

(33) Rely with acquittance on advice of counsel on questions of law; and

(34) Continue to be a party to any existing voting trust agreement or enter into any new voting trust agreement or renew an existing voting trust agreement with respect to any assets contained in trust. [1984 c 149 § 80; 1959 c 124 § 7. Formerly RCW 30.99.070.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.080 Consolidation of trusts. (Effective January 1, 1985.) (1) Two or more trusts may be consolidated if:

(a) The trusts so provide; or

(b) Whether provided in the trusts or not, in accordance with subsection (2) of this section, if all interested persons consent as provided in subsection (2)(c) of this section and the requirements of subsection (1)(d) of this section are satisfied; or

(c) Whether provided in the trusts or not, in accordance with subsection (3) of this section if the requirements of subsection (1)(d) of this section are satisfied;

(d) Consolidation under subsection (2) or (3) of this section is permitted only if:

(i) The dispositive provisions of each trust to be consolidated are substantially similar;

(ii) Consolidation is not inconsistent with the intent of the trustor with regard to any trust to be consolidated; and

(iii) Consolidation would facilitate administration of the trusts and would not materially impair the interests of the beneficiaries;

(e) Trusts may be consolidated whether created inter vivos or by will, by the same or different instruments, by the same or different trustors, whether the trustees are the same, and regardless of where the trusts were created or administered.

(2) The trustees of two or more trusts may consolidate the trusts on such terms and conditions as appropriate without court approval as provided in RCW 11.96.170.

(a) The trustee shall give written notice of proposed consolidation by personal service or by certified mail to the beneficiaries of every trust affected by the consolidation as provided in RCW 11.96.100 and 11.96.110 and to any trustee of such trusts who does not join in the notice. The notice shall: (i) State the name and mailing address of the trustee; (ii) include a copy of the governing instrument of each trust to be consolidated; (iii) include a statement of assets and liabilities of each trust to be consolidated, dated within ninety days of the notice; (iv) fully describe the terms and manner of consolidation; and (v) state the reasons supporting the requirements of subsection (1)(d) of this section. The notice shall advise the recipient of the right to petition for a judicial determination of the proposed consolidation as provided in subsection (3) of this section. The notice shall include a form on which consent or objection to the proposed consolidation may be indicated.

(b) If the trustee receives written consent to the proposed consolidation from all persons entitled to notice as provided in RCW 11.96.100 and 11.96.110, the trustee

may consolidate the trusts as provided in the notice. Any person dealing with the trustee of the resulting consolidated trust is entitled to rely on the authority of that trustee to act and is not obliged to inquire into the validity or propriety of the consolidation under this section.

(3)(a) Any trustee, beneficiary, or special representative may petition the superior court of the county in which the principal place of administration of a trust is located for an order consolidating two or more trusts under chapter 11.96 RCW. If nonjudicial consolidation has been commenced pursuant to subsection (2) of this section, a petition may be filed under this section unless the trustee has received all necessary consents. The principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(b) At the conclusion of the hearing, if the court finds that the requirements of subsection (1)(d) of this section have been satisfied, it may direct consolidation of two or more trusts on such terms and conditions as appropriate. The court in its discretion may provide for payment from one or more of the trusts of reasonable fees and expenses for any party to the proceeding.

(4) This section applies to all trusts whenever created. [1984 c 149 § 81.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.090 Nonliability of third persons without knowledge of breach. (Effective January 1, 1985.) In the absence of knowledge of a breach of trust, no party dealing with a trustee is required to see to the application of any moneys or other properties delivered to the trustee. [1984 c 149 § 83; 1959 c 124 § 8. Formerly RCW 30.99.080.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.100 Nonliability for action or inaction based on lack of knowledge of events. (Effective January 1, 1985.) When the happening of any event, including but not limited to such events as marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of the trust, then a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for any action or inaction based on lack of knowledge of the event. A corporate trustee is not liable prior to receiving such knowledge or notice in its trust department office where the trust is being administered. [1984 c 149 § 84; 1959 c 124 § 9. Formerly RCW 30.99.090.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.110 Contract and tort liability. (Effective January 1, 1985.) Actions on contracts which have been transferred to a trust and on contracts made by a trustee, and actions in tort for personal liability incurred by

a trustee in the course of administration may be maintained by the party in whose favor the cause of action has accrued as follows:

(1) The plaintiff may sue the trustee in the trustee's representative capacity and any judgment rendered in favor of the plaintiff is collectible by execution out of the trust property: *Provided, however,* If the action is in tort, collection shall not be had from the trust property unless the court determines in the action that (a) the tort was a common incident of the kind of business activity in which the trustee or the trustee's predecessor was properly engaged for the trust; or (b) that, although the tort was not a common incident of such activity, neither the trustee nor the trustee's predecessor, nor any officer or employee of the trustee or the trustee's predecessor, was guilty of personal fault in incurring the liability; or (c) that, although the tort did not fall within classes (a) or (b) above, it increased the value of the trust property. If the tort is within classes (a) or (b) above, collection may be had of the full amount of damage proved, and if the tort is within class (c) above, collection may be had only to the extent of the increase in the value of the trust property.

(2) If the action is on a contract made by the trustee, the trustee may be held personally liable on the contract, if personal liability is not excluded. Either the addition by the trustee of the words "trustee" or "as trustee" after the signature of a trustee to a contract or the transaction of business as trustee under an assumed name in compliance with chapter 19.80 RCW excludes the trustee from personal liability. If the action is on a contract transferred to the trust or trustee, subject to any rights therein vested at time of the transfer, the trustee is personally liable only if he or she has in writing assumed that liability.

(3) In any such action against the trustee in the trustee's representative capacity the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if the trustee had paid the plaintiff's claim.

(4) The trustee may also be held personally liable for any tort committed by him or her, or by his or her agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement:

(a) A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if (i) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust, or (ii) although the tort was not a common incident of such activity, if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability;

(b) A trustee who commits a tort which increases the value of the trust property is entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though the trustee would not otherwise be entitled to exoneration or reimbursement.

(5) The procedure for all actions provided in this section is as provided in chapter 11.96 RCW.

(6) Nothing in this section shall be construed to change the existing law with regard to the liability of the trustee of a charitable trust for the torts of the trustee. [1984 c 149 § 85; 1983 c 3 § 50; 1959 c 124 § 10. Formerly RCW 30.99.100.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.130 Violation of rule against perpetuities by instrument—Periods during which trust not invalid. (Effective January 1, 1985.) If any provision of an instrument creating a trust, including the provisions of any further trust created, or any other disposition of property made pursuant to exercise of a power of appointment granted in or created through authority under such instrument violates the rule against perpetuities, neither such provision nor any other provisions of the trust, or such further trust or other disposition, is thereby rendered invalid during any of the following periods:

(1) The twenty-one years following the effective date of the instrument.

(2) The period measured by any life or lives in being or conceived at the effective date of the instrument if by the terms of the instrument the trust is to continue for such life or lives.

(3) The period measured by any portion of any life or lives in being or conceived at the effective date of the instrument if by the terms of the instrument the trust is to continue for such portion of such life or lives; and

(4) The twenty-one years following the expiration of the periods specified in (2) and (3) above. [1984 c 149 § 87; 1965 c 145 § 11.98.010. Prior: 1959 c 146 § 1. Formerly RCW 11.98.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.140 Distribution of assets and vesting of interest during period trust not invalid. (Effective January 1, 1985.) If, during any period in which an instrument creating a trust, as described in RCW 11.98.130, or any provision thereof, is not to be rendered invalid by the rule against perpetuities, any of the trust assets should by the terms of the instrument or pursuant to any further trust or other disposition resulting from exercise of the power of appointment granted in or created through authority under such instrument, become distributable or any beneficial interest in any of the trust assets should by the terms of the instrument, or such further trust or other disposition become vested, such assets shall be distributed and such beneficial interest shall validly vest in accordance with the instrument, or such further trust or other disposition. [1984 c 149 § 88; 1965 c 145 § 11.98.020. Prior: 1959 c 146 § 2. Formerly RCW 11.98.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.150 Distribution of assets at expiration of period. (Effective January 1, 1985.) If, at the expiration of any period in which an instrument creating a trust, as described in RCW 11.98.009, or any provision thereof, is

not to be rendered invalid by the rule against perpetuities, any of the trust assets have not by the terms of the trust instrument become distributable or vested, then the assets shall be distributed as the superior court having jurisdiction directs, giving effect to the general intent of the creator of the trust or person exercising a power of appointment in the case of any further trust or other disposition of property made pursuant to the exercise of a power of appointment. [1984 c 149 § 89; 1965 c 145 § 11.98.030. Prior: 1959 c 146 § 3. Formerly RCW 11.98.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.160 Effective date of irrevocable inter vivos trust—Effective date of revocable inter vivos or testamentary trust. (Effective January 1, 1985.) For the purposes of this chapter the effective date of an instrument purporting to create an irrevocable inter vivos trust is the date on which it is executed by the trustor, and the effective date of an instrument purporting to create either a revocable inter vivos trust or a testamentary trust is the date of the trustor's or testator's death. [1984 c 149 § 90; 1965 c 145 § 11.98.040. Prior: 1959 c 146 § 4. Formerly RCW 11.98.040.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.170 Designation of trustee as beneficiary of life insurance policy or retirement plan—Determination of proper recipient of proceeds—Definitions—Beneficiary designations executed before January 1, 1985, not invalidated. (Effective January 1, 1985.) (1) Any life insurance policy or retirement plan payment provision may designate as beneficiary:

(a) A trustee named or to be named by will, and immediately after the proving of the will, the proceeds of such insurance or of such plan designated as payable to that trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of under the terms of the will governing the testamentary trust; or

(b) A trustee named or to be named under a trust agreement executed by the insured, the plan participant, or any other person, and the proceeds of such insurance or retirement plan designated as payable to such trustee, in part or in whole, shall be paid to the trustee in accordance with the beneficiary designation, to be held and disposed of by the trustee as provided in such trust agreement; a trust is valid even if the only corpus consists of the right of the trustee to receive as beneficiary insurance or retirement plan proceeds; any such trustee may also receive assets, other than insurance or retirement plan proceeds, by testamentary disposition or otherwise and, unless directed otherwise by the transferor of the assets, shall administer all property of the trust according to the terms of the trust agreement.

(2) If no qualified trustee makes claim to the insurance policy or retirement plan proceeds from the insurance company or the plan administrator within twelve

months after the death of the insured or plan participant, determination of the proper recipient of the proceeds shall be made pursuant to the judicial or nonjudicial dispute resolution procedures of chapter 11.96 RCW, unless prior to the institution of the judicial procedures, a qualified trustee makes claim to the proceeds, except that (a) if satisfactory evidence is furnished the insurance company or plan administrator within the twelve-month period showing that no trustee can or will qualify to receive such proceeds, payment shall be made to those otherwise entitled to the proceeds under the terms of the policy or retirement plan, including the terms of the beneficiary designation except that (b) if there is any dispute as to the proper recipient of insurance policy or retirement plan proceeds, the dispute shall be resolved pursuant to the judicial or nonjudicial resolution procedures in chapter 11.96 RCW.

(3) The proceeds of the insurance or retirement plan as collected by the trustee are not subject to debts of the insured or the plan participant to any greater extent than if the proceeds were payable to any named beneficiary other than the personal representative or the estate of the insured or of the plan participant.

(4) For purposes of this section the following definitions apply:

(a) "Plan administrator" means the person upon whom claim must be made in order for retirement plan proceeds to be paid upon the death of the plan participant.

(b) "Retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for payment to a beneficiary designated by the plan participant for whom the plan is established. The term includes, without limitation, such plans regardless of source of funding, and, for example, includes pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other retirement plan or program.

(c) "Trustee" includes any custodian under chapter 11.93 RCW or any similar statutory provisions of any other state and the terms "trust agreement" and "will" refer to the provisions of chapter 11.93 RCW or such similar statutory provisions of any other state.

(5) Enactment of this section does not invalidate life insurance policy or retirement plan beneficiary designations executed prior to January 1, 1985, naming a trustee established by will or by trust agreement. [1984 c 149 § 91.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.98.900 Application of chapter. (Effective January 1, 1985.) The provisions of this chapter are applicable to any instrument purporting to create a trust regardless of the date such instrument bears, unless it has been previously adjudicated in the courts of this state. [1984 c 149 § 93; 1971 ex.s. c 229 § 1; 1965 c 145 § 11.98.050. Prior: 1959 c 146 § 5. Formerly RCW 11.98.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Effective date—1959 c 146: The effective date of 1959 c 146, herein reenacted by 1965 c 145 § 11.98.050, was midnight June 10, 1959, see preface 1959 session laws.

11.98.910 Severability—1959 c 124. (Recodification effective January 1, 1985.) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. [1959 c 124 § 11. Formerly RCW 30.99.900.]

11.98.920 Short title. (Recodification effective January 1, 1985.) This act shall be known as the "Washington Trust Act." [1959 c 124 § 12. Formerly RCW 30.99.910.]

Chapter 11.100

INVESTMENT OF TRUST FUNDS

Sections

- 11.100.010 Provisions of chapter to control. (Recodification effective January 1, 1985.)
- 11.100.015 Guardians, guardianships and funds are subject to chapter. (Recodification effective January 1, 1985.)
- 11.100.020 Management of trust assets by fiduciary. (Effective January 1, 1985.)
- 11.100.023 Authority of fiduciary to invest in certain enterprises. (Effective January 1, 1985.)
- 11.100.025 Marital deduction interests.
- 11.100.030 Investment in savings accounts—Requirements. (Effective January 1, 1985.)
- 11.100.035 Investments in securities of certain investment trusts. (Recodification effective January 1, 1985.)
- 11.100.037 Investment or distribution of funds held in fiduciary capacity—Deposit in other departments authorized—Collateral security required, exception. (Effective January 1, 1985.)
- 11.100.040 Court may permit deviation from terms of trust instrument. (Recodification effective January 1, 1985.)
- 11.100.050 Scope of chapter. (Effective January 1, 1985.)
- 11.100.060 Fiduciary may hold trust property—Investments—Liability. (Effective January 1, 1985.)
- 11.100.070 Meaning of terms in trust instrument. (Effective January 1, 1985.)
- 11.100.090 Dealings with self or affiliate. (Effective January 1, 1985.)
- 11.100.120 Use of trust funds for life insurance. (Effective January 1, 1985.)
- 11.100.130 Person to whom power or authority to direct or control acts of trustee or investments of a trust is conferred deemed a fiduciary—Liability. (Recodification effective January 1, 1985.)
- 11.100.140 Notice and procedure for nonroutine transactions. (Effective January 1, 1985.)

Trust provisions may relieve trustee from duty, restriction, or liability imposed by statute: RCW 11.97.010.

11.100.010 Provisions of chapter to control. (Recodification effective January 1, 1985.) Any corporation, association, or person handling or investing trust funds as a fiduciary shall be governed in the handling and investment of such funds as in this chapter specified.

[1955 c 33 § 30.24.010. Prior: 1947 c 100 § 1; Rem. Supp. 1947 § 3255-10a. Formerly RCW 30.24.010.]

11.100.015 Guardians, guardianships and funds are subject to chapter. (Recodification effective January 1, 1985.) In addition to other fiduciaries, a guardian of any estate is a fiduciary within the meaning of this chapter; and in addition to other trusts, a guardianship of any estate is a trust within the meaning of this chapter; and in addition to other trust funds, guardianship funds are trust funds within the meaning of this chapter. [1955 c 33 § 30.24.015. Prior: 1951 c 218 § 1. Formerly RCW 30.24.015.]

11.100.020 Management of trust assets by fiduciary. (Effective January 1, 1985.) (1) A fiduciary is authorized to acquire and retain every kind of property. In acquiring, investing, reinvesting, exchanging, selling and managing property for the benefit of another, a fiduciary, in determining the prudence of a particular investment, shall give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying such total asset management approach, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, and if the fiduciary has special skills or is named trustee on the basis of representations of special skills or expertise, the fiduciary is under a duty to use those skills.

(2) Except as may be provided to the contrary in the instrument, the following are among the factors that should be considered by a fiduciary in applying this total asset management approach:

- (a) The probable income as well as the probable safety of their capital;
- (b) Marketability of investments;
- (c) Length of the term of the investments;
- (d) Duration of the trust;
- (e) Liquidity needs;
- (f) Requirements of the beneficiary or beneficiaries;
- (g) Other assets of the beneficiary or beneficiaries, including earning capacity; and
- (h) Effect of investments in increasing or diminishing liability for taxes.

Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a fiduciary is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment specifically including but not by way of limitation, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion, and intelligence acquire for their own account. [1984 c 149 § 97; 1955 c 33 § 30.24.020. Prior: 1947 c 100 § 2; Rem. Supp. 1947 § 3255-10b. Formerly RCW 30.24.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Endowment care funds to be invested in accordance with RCW 11.100.020: RCW 68.44.030.

11.100.023 Authority of fiduciary to invest in certain enterprises. (Effective January 1, 1985.) Subject to the standards of RCW 11.100.020, a fiduciary is authorized to invest in new, unproven, untried, or other enterprises with a potential for significant growth whether producing a current return, either by investing directly therein or by investing as a limited partner or otherwise in one or more commingled funds which in turn invest primarily in such enterprises. The aggregate amount of investments made by a fiduciary under the authority of this section shall not exceed ten percent of the net fair market value of the trust corpus at the time any such investment is made. Any investment which would have been authorized by this section if in force at the time the investment was made is hereby authorized. [1984 c 149 § 98.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Securities in default ineligible for investment: RCW 30.24.080.

11.100.025 Marital deduction interests. With respect to trusts for which a federal estate or gift tax marital deduction is taken, any investment in or retention of unproductive property is subject to a power in the spouse of the trust's creator to require either that any such asset be made productive, or that it be converted to productive assets within a reasonable period of time unless the instrument creating the interest provides otherwise. [1984 c 149 § 99.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Securities in default ineligible for investment: RCW 30.24.080.

11.100.030 Investment in savings accounts—Requirements. (Effective January 1, 1985.) A corporation doing a trust business may invest trust funds in savings accounts with itself to the extent that deposits are insured by an agency of the federal government. Additional trust funds may be so invested by the corporation only if it first sets aside under the control of its trust department as collateral security:

(1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of the funds so deposited. [1984 c 149 § 101; 1967 c 133 § 3; 1955 c 33 § 30.24.030. Prior: 1947 c 100 § 3; Rem. Supp. 1947 § 3255-10c. Formerly RCW 30.24.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.035 Investments in securities of certain investment trusts. (Recodification effective January 1,

1985.) Within the standards of judgment and care established by law, and subject to any express provisions or limitations contained in any particular trust instrument, guardians, trustees and other fiduciaries, whether individual or corporate, are authorized to acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the federal investment company act of 1940 as now or hereafter amended. [1955 c 33 § 30.24-.035. Prior: 1951 c 132 § 1. Formerly RCW 30.24.035.]

11.100.037 Investment or distribution of funds held in fiduciary capacity—Deposit in other departments authorized—Collateral security required, exception. (Effective January 1, 1985.) Funds held by a bank or trust company in a fiduciary capacity awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. These funds, including managing agency accounts, may, unless prohibited by the instrument creating the trust or by other statutes of this state, be deposited in the commercial or savings or other department of the bank or trust company, only if the bank or trust company first sets aside under control of the trust department as collateral security:

(1) Direct obligations of the United States or other obligations fully guaranteed by the United States as to principal and interest; or

(2) Bonds or other obligations which constitute general obligations of any state of the United States or municipal subdivision thereof.

The securities so deposited or securities substituted therefor as collateral shall at all times be at least equal in market value to the amount of the funds so deposited, but such security shall not be required to the extent that the funds so deposited are insured by an agency of the federal government. [1984 c 149 § 104; 1967 c 133 § 4. Formerly RCW 30.24.037.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.040 Court may permit deviation from terms of trust instrument. (Recodification effective January 1, 1985.) Nothing contained in this chapter shall be construed as restricting the power of a court of proper jurisdiction to permit a fiduciary to deviate from the terms of any will, agreement, or other instrument relating to the acquisition, investment, reinvestment, exchange, retention, sale, or management of fiduciary property. [1955 c 33 § 30.24.040. Prior: 1947 c 100 § 4; Rem. Supp. 1947 § 3255-10d. Formerly RCW 30.24.040.]

11.100.050 Scope of chapter. (Effective January 1, 1985.) The provisions of this chapter govern fiduciaries acting under wills, agreements, court orders, and other instruments effective before or after January 1, 1985. [1984 c 149 § 107; 1955 c 33 § 30.24.050. Prior: 1947 c 100 § 5; Rem. Supp. 1947 § 3255-10e. Formerly RCW 30.24.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.060 Fiduciary may hold trust property—Investments—Liability. (Effective January 1, 1985.) Any fiduciary may hold during the life of the trust all securities or other property, real or personal, received into or acquired by the trust from any source, except such as are purchased by the fiduciary in administering the trust, unless there are express provisions to the contrary in the instrument.

Any fiduciary may invest funds held in trust under an instrument creating the trust in any manner and in any investment or in any class of investments authorized by the instrument.

The investments described in this section are permissible even though the securities or other property are not permitted under other provisions of this chapter, and even though the securities may be securities issued by the corporation that is the fiduciary.

A fiduciary is not liable for any loss incurred with respect to any investment held under the authority of or pursuant to this section if that investment was permitted when received or when the investment was made by the fiduciary, and if the fiduciary exercises due care and prudence in the disposition or retention of any such investment. [1984 c 149 § 108.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.070 Meaning of terms in trust instrument. (Effective January 1, 1985.) The terms "legal investment" or "authorized investment" or words of similar import, as used in any such instrument, shall be taken to mean any investment which is permitted by the terms of RCW 11.100.020. [1984 c 149 § 110; 1955 c 33 § 30-.24.070. Prior: 1947 c 100 § 7; 1941 c 41 § 13; Rem. Supp. 1947 § 3255-13. Formerly RCW 30.24.070.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.090 Dealings with self or affiliate. (Effective January 1, 1985.) Unless the instrument creating the trust expressly provides to the contrary, any fiduciary in carrying out the obligations of the trust, may not buy or sell investments from or to himself, herself, or itself or any affiliated or subsidiary company or association. This section shall not be construed as prohibiting the trustee's powers under RCW 11.98.070(12). [1984 c 149 § 111; 1955 c 33 § 30.24.090. Prior: 1947 c 100 § 9; 1941 c 41 § 17; Rem. Supp. 1947 § 3255-17. Formerly RCW 30.24.090.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.100.120 Use of trust funds for life insurance. (Effective January 1, 1985.) Subject to the standards of RCW 11.100.020, a fiduciary is authorized to use trust funds to acquire life insurance upon the life of any beneficiary or upon the life of another in whose life such beneficiary has an insurable interest. [1984 c 149 § 112; 1973 1st ex.s. c 89 § 1. Formerly RCW 30.24.120.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Insurable interest, guardian, trustee or other fiduciary: RCW 48.18.030(3)(d).

11.100.130 Person to whom power or authority to direct or control acts of trustee or investments of a trust is conferred deemed a fiduciary—Liability. (Recodification effective January 1, 1985.) Whenever power or authority to direct or control the acts of a trustee or the investments of a trust is conferred directly or indirectly upon any person other than the designated trustee of the trust, such person shall be deemed to be a fiduciary and shall be liable to the beneficiaries of said trust and to the designated trustee to the same extent as if he were a designated trustee in relation to the exercise or nonexercise of such power or authority. [1973 1st ex.s. c 89 § 2. Formerly RCW 30.24.130.]

11.100.140 Notice and procedure for nonroutine transactions. (Effective January 1, 1985.) (1) A trustee shall not enter into a significant nonroutine transaction in the absence of a compelling circumstance without:

(a) Providing the written notice called for by subsection (4) of this section; and

(b) If the significant nonroutine transaction is of the type described in subsection (2)(a) of this section, obtaining an independent appraisal, or selling in an open-market transaction.

(2) A "significant nonroutine transaction" for the purpose of this section is defined as any of the following:

(a) Any sale, option, lease, or other agreement, binding for a period of ten years or more, dealing with any interest in real estate other than real estate purchased by the trustee or a vendor's interest in a real estate contract, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(b) The sale of any item or items of tangible personal property, including a sale of precious metals or investment gems other than precious metals or investment gems purchased by the trustee, the value of which constitutes twenty-five percent or more of the net fair market value of trust principal at the time of the transaction; or

(c) The sale of shares of stock in a corporation whose stock is not traded on the open market, if the stock in question constitutes more than twenty-five percent of the corporation's outstanding shares; or

(d) The sale of shares of stock in any corporation where the stock to be sold constitutes a controlling interest, or would cause the trust to no longer own a controlling interest, in the corporation.

(3) A "compelling circumstance" for the purpose of this section is defined as a condition, fact, or event that the trustee believes necessitates action without compliance with this section in order to avoid immediate and significant detriment to the trust. If faced with a compelling circumstance, the trustee shall give the notice called for in subsection (4) of this section and may thereafter enter into the significant nonroutine transaction without waiting for the expiration of the twenty-day period.

(4) The written notice required by this section shall set forth such material facts as necessary to advise properly the recipient of the notice of the nature and terms of the intended transaction. This notice shall be given to the trustor, if living, to each person who is eighteen years or older and to whom income is presently payable or for whom income is presently being accumulated for distribution as income and for whom an address is known to the trustee, and to the attorney general if the trust is a charitable trust under RCW 11.110.020. The notice shall be mailed by United States certified mail, postage prepaid, return receipt requested, to the recipient's last-known address, or may be personally served, at least twenty days prior to the trustee entering into any binding agreements.

(5) The trustor, if living, or persons entitled to notice under this section may, by written instrument, waive any requirement imposed by this section.

(6) Except as required by this section for nonroutine transactions defined in subsection (2) of this section, a trustee shall not be required to notify beneficiaries of a trust of the trustee's intended action, to obtain an independent appraisal, or to sell in an open-market transaction.

(7) Any person dealing with a trustee may rely upon the trustee's written statement that the requirements of this section have been met for a particular transaction. If a trustee gives such a statement, the transaction shall be final unless the party relying on the statement has actual knowledge that the requirements of this section have not been met.

(8) The requirements of this section, and any similar requirements imposed by prior case law, shall not apply to personal representatives or to those trusts excluded from the definition of express trusts under RCW 11.98.009. [1984 c 149 § 114.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.102

COMMON TRUST FUNDS

Sections

11.102.010	Funds authorized—Investment—Rules and regulations—"Affiliated" defined. (Recodification effective January 1, 1985.)
11.102.020	Accounting. (Recodification effective January 1, 1985.)
11.102.030	Applicability of chapter. (Recodification effective January 1, 1985.)
11.102.040	Interpretation of chapter. (Recodification effective January 1, 1985.)
11.102.050	Chapter designated "uniform common trust fund act". (Recodification effective January 1, 1985.)

11.102.010 Funds authorized—Investment—Rules and regulations—"Affiliated" defined. (Recodification effective January 1, 1985.) Any bank or trust company qualified to act as fiduciary in this state, or in any other state if affiliated with a bank or trust company qualified to act as fiduciary in this state, may establish common trust funds for the purpose of furnishing investments to itself and its affiliated or related bank or

trust company as fiduciary, or to itself and its affiliated or related bank or trust company, and others, as cofiduciaries; and may, as such fiduciary or cofiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship, and if, in the case of cofiduciaries, the bank or trust company procures the consent of its cofiduciary or cofiduciaries to such investment: *Provided*, That any bank or trust company qualified to act as fiduciary in the state of its charter, which is not a member of the federal reserve system, shall, in the operation of such common trust fund, comply with the rules and regulations as made from time to time by the supervisor of banking in the state where chartered and in Washington the supervisor is hereby authorized and empowered to make such rules and regulations as he may deem necessary and proper in the premises.

"Affiliated" as used in this section means two or more banks or trust companies:

(1) In which twenty-five percent or more of their voting shares, excluding shares owned by the United States or by any company wholly owned by the United States, are directly or indirectly owned or controlled by a holding company; or

(2) In which the election of a majority of the directors is controlled in any manner by a holding company. [1979 c 105 § 1; 1955 c 33 § 30.28.010. Prior: 1943 c 55 § 1; Rem. Supp. 1943 § 3388. Formerly RCW 30.28.010.]

11.102.020 Accounting. (Recodification effective January 1, 1985.) Unless ordered by a court of competent jurisdiction the bank or trust company operating such common trust funds is not required to render a court accounting with regard to such funds; but it may, by application to the superior court, secure approval of such an accounting on such conditions as the court may establish. [1955 c 33 § 30.28.020. Prior: 1943 c 55 § 2; Rem. Supp. 1943 § 3388-1. Formerly RCW 30.28.020.]

11.102.030 Applicability of chapter. (Recodification effective January 1, 1985.) This chapter shall apply to fiduciary relationships in existence on June 11, 1943, or thereafter established. [1955 c 33 § 30.28.030. Prior: 1943 c 55 § 7; Rem. Supp. 1943 § 3388-6. Formerly RCW 30.28.030.]

11.102.040 Interpretation of chapter. (Recodification effective January 1, 1985.) This chapter shall be so interpreted and construed to effectuate its general purpose to make uniform the laws of those states which enact it. [1955 c 33 § 30.28.040. Prior: 1943 c 55 § 3; Rem. Supp. 1943 § 3388-2. Formerly RCW 30.28.040.]

11.102.050 Chapter designated "uniform common trust fund act". (Recodification effective January 1, 1985.) This chapter may be cited as the uniform common trust fund act. [1955 c 33 § 30.28.050. Prior: 1943 c 55 § 4; Rem. Supp. 1943 § 3388-3. Formerly RCW 30.28.050.]

Chapter 11.104

WASHINGTON PRINCIPAL AND INCOME ACT

Sections

11.104.010	Definitions. (Effective January 1, 1985.)
11.104.020	Duty of trustee as to receipts and expenditures. (Effective January 1, 1985.)
11.104.030	Income—Principal—Charges. (Effective January 1, 1985.)
11.104.040	When right to income arises—Apportionment of income. (Effective January 1, 1985.)
11.104.050	Income earned during administration of a decedent's estate. (Effective January 1, 1985.)
11.104.060	Corporate distribution. (Effective January 1, 1985.)
11.104.070	Bond premium and discount. (Effective January 1, 1985.)
11.104.080	Trade, business and farming operations. (Effective January 1, 1985.)
11.104.090	Disposition of receipts from natural resources. (Effective January 1, 1985.)
11.104.120	Underproductive property—Definition. (Effective January 1, 1985.)
11.104.130	Charges against income and principal. (Effective January 1, 1985.)

Trust provisions may relieve trustee from duty, restriction, or liability imposed by statute: RCW 11.97.010.

11.104.010 Definitions. (Effective January 1, 1985.)

As used in this chapter:

(1) "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income;

(2) "Inventory value" means the cost of property purchased by the trustee and the cost or adjusted basis for federal income tax purposes of other property at the time it became subject to the trust, but in the case of a trust asset that is included on any death tax return the trustee may, but need not, use the value finally determined for the purposes of the federal estate tax if applicable, otherwise for another estate or inheritance tax;

(3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal. [1984 c 149 § 116; 1971 c 74 § 1.]

Reviser's note: Throughout this chapter the term "this act" has been changed to "this chapter". "This act" [1971 c 74] consists of this chapter and the repeal of RCW 23.74.010 and 23.74.020.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.020 Duty of trustee as to receipts and expenditures. (Effective January 1, 1985.) (1) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

(a) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this chapter;

(b) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this chapter; or

(c) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which persons of prudence, discretion, and intelligence would act in the management of their own affairs.

(2) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation consistent with the instrument but that is contrary to a provision of this chapter. [1984 c 149 § 117; 1971 c 74 § 2.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.030 Income—Principal—Charges. (Effective January 1, 1985.) (1) Income is the return in money or property derived from the use of principal, including:

(a) Rent of real or personal property, including sums received for cancellation or renewal of a lease;

(b) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in RCW 11.104.070 on bond premiums and bond discounts;

(c) Income earned during administration of a decedent's estate as provided in RCW 11.104.050;

(d) Corporate distributions as provided in RCW 11.104.060;

(e) Increment in value on bonds or other obligations issued at a discount as provided in RCW 11.104.070;

(f) Receipts from business and farming operations as provided in RCW 11.104.080;

(g) Receipts from disposition of natural resources as provided in RCW 11.104.090 and 11.104.100;

(h) Receipts from other principal subject to depletion as provided in RCW 11.104.110; and

(i) Receipts from disposition of underproductive property as provided in RCW 11.104.120.

(2) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return on or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes:

(a) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;

(b) Proceeds of property taken on eminent domain proceedings;

(c) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;

(d) Stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in RCW 11.104.060;

(e) Receipts from the disposition of corporate securities, bonds, or other obligations for the payment of money as provided in RCW 11.104.070;

(f) Royalties and other receipts from disposition of natural resources as provided in RCW 11.104.090 and 11.104.100;

(g) Receipts from other principal subject to depletion as provided in RCW 11.104.110;

(h) Any profit resulting from any change in the form of principal except as provided in RCW 11.104.120 on underproductive property;

(i) Receipts from disposition of underproductive property as provided in RCW 11.104.120; and

(j) Any allowances for depreciation established under RCW 11.104.080 and 11.104.130(1)(b).

(3) After determining income and principal in accordance with the terms of the trust instrument or of this chapter, the trustee shall charge to income or principal expenses and other charges as provided in RCW 11.104.130. [1984 c 149 § 118; 1971 c 74 § 3.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.040 When right to income arises—Apportionment of income. (Effective January 1, 1985.) (1) An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(2) Subject to subsection (2) (a) and (b) of this section, in the administration of a decedent's estate or of an asset becoming subject to a trust by reason of a will all receipts paid on or before the date of death of the testator are principal and all receipts paid after that date are income.

(a) Notwithstanding the foregoing, receipts due but not paid on or before the date of death of the testator are principal; and

(b) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due on or before the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

(3) In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

(4) On the termination of an income beneficiary's income interest, if such interest was not subject to any discretion to withhold, accumulate, or distribute income to or for any other beneficiary, then income on hand but undistributed belongs to that income beneficiary or that beneficiary's estate, except that if the income beneficiary is the surviving spouse of the testator or grantor of the trust and the income interest otherwise qualifies for the

marital deduction on any federal estate tax return, then all accrued but undistributed income is subject to a power in the surviving spouse, exercisable by will by specifically referring to this statute, to appoint the same to the testator or grantor or his or her estate. All undistributed income not disposed of under the foregoing provisions of this subsection shall be held and distributed as part of the next eventual interest or estate in accordance with the provisions of the will or trust relating to such next eventual interest or estate.

(5) Corporate distributions to stockholders shall be treated as due on the date fixed by the corporation for determination of stockholders of record entitled to distribution, or if no date is fixed, on the date of declaration of the distribution by the corporation. [1984 c 149 § 119; 1971 c 74 § 4.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.050 Income earned during administration of a decedent's estate. (Effective January 1, 1985.) (1) Unless the will or the court otherwise provides and subject to subsection (2) of this section, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest due at death, and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate, except that the principal shall be reimbursed from income for any increase in estate taxes due to the use of administration expenses that were paid from principal as deductions for income tax purposes.

(2) Unless the will or the court otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trust under this chapter and distributed as follows:

(a) To beneficiaries of any specific bequest, legacy, or devise, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and appropriate portions of interest accrued since the death of the testator and of taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration;

(b) Subject to (c) of this subsection, to all other beneficiaries, including trusts, the balance of the income less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, plus the balance of all income accrued since the death of the testator, and less the balance of all taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of the fair value, provided, that the amount of income earned before the date or dates of payment of any estate or inheritance tax shall be distributed to those beneficiaries in

proportion to their interests immediately before the making of those payments; and

(c) Pecuniary bequests not in trust do not receive income, and, subject to the provisions of RCW 11.56.160, all such bequests, including those to the decedent's surviving spouse, are not allocated any share of the expenses identified in subsection (2)(b) of this section.

(3) Any income with respect to which the income taxes have been paid which is payable in whole or in part to one or more charitable or other tax exempt organization[s], and for which an income tax charitable deduction was allowable, shall be allocated among the distributees in such manner that the diminution in such taxes resulting from the charitable deduction allowable will inure to the benefit of the charitable or tax exempt organization giving rise to the deduction.

(4) Income received by a trustee under subsection (2) of this section shall be treated as income of the trust. [1984 c 149 § 120; 1971 c 74 § 5.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.060 Corporate distribution. (Effective January 1, 1985.) (1) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

(2) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the stock became a part of the trust corpus or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:

(a) A call of shares;

(b) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or

(c) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

(3) Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(4) Except as provided in subsections (1), (2), and (3) of this section all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and

the proceeds of the rights or property distributions. Except as provided in subsections (2) and (3) of this section, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(5) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets. [1984 c 149 § 121; 1971 c 74 § 6.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.070 Bond premium and discount. (Effective January 1, 1985.) (1) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection (2) for discount bonds. The trustee shall not provide for amortization of bond premiums or for accumulation of discount except where the trust instrument provides otherwise. If the instrument provides for amortization of premiums or accumulation of discount, but not both, and is silent as to one, it is the duty of the trustee to amortize premiums and accumulate discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(2) The increment in value of a bond or other obligation for the payment of money bearing no fixed rate of interest or payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. Except as otherwise provided in RCW 11.104.040(4), the increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized. [1984 c 149 § 122; 1971 c 74 § 7.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.080 Trade, business and farming operations. (Effective January 1, 1985.) If a trustee uses any part of the principal in the operation of a trade, business or farming operation, the proceeds and losses of the business shall be allocated in accordance with what is reasonable and equitable in view of the interest of those entitled to income as well as those entitled to principal, and in view of the manner in which persons of prudence, discretion, and intelligence would act in the management of their own affairs in accordance with RCW 11.104.020. The operation of real estate for rent is considered a business. [1984 c 149 § 123; 1971 c 74 § 8.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.090 Disposition of receipts from natural resources. (Effective January 1, 1985.) (1) If any part of the principal consists of a right to receive royalties,

overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(a) If received as rent on a lease or extension payments on a lease, the receipts are income;

(b) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income; and

(c) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. Receipts shall be allocated to income or apportioned between income and principal at the discretion of the trustee, but in no event may principal be allocated more than that portion of the gross receipts that is deductible for federal income tax purposes during that year. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

(2) If a trustee, on January 1, 1972, held an item of depletable property of a type specified in this section, the trustee shall allocate receipts from the property in the manner used before January 1, 1972, but as to all depletable property acquired after January 1, 1972 by an existing or new trust, the method of allocation provided herein shall be used.

(3) This section does not apply to timber, water, soil, sod, dirt, turf, or mosses. [1984 c 149 § 124; 1971 c 74 § 9.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.120 Underproductive property—Definition. (Effective January 1, 1985.) (1) Except as provided in subsection (5) of this section, a portion of the net proceeds of sale of any part of principal which is underproductive shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received, less expenses, including any capital gains tax incurred in disposition, and less any carrying charges paid while the property was underproductive.

(2) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four percent per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against

income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any use of the property by the income beneficiary, is income, and the balance is principal.

(3) Except as otherwise provided in RCW 11.104.040(4), an income beneficiary is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

(4) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages (for example, realty acquired by or in lieu of foreclosure), the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

(5) This section does not apply to underproductive property that the trustee is authorized to retain by the terms of the controlling document or by law that is received into or acquired by the trust from any source, except property which is purchased by the fiduciary in administering the trust, the retention of which has been authorized in writing by the income beneficiaries, or the retention of which would be considered proper under the standard set forth in RCW 11.100.020.

(6) As used in this section, the term "underproductive property" refers to any property that has not produced an average net income of at least one percent per year (simple interest) of its inventory value for more than a year (including as income the value of any use of the property by the income beneficiary). [1984 c 149 § 125; 1971 c 74 § 12.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.104.130 Charges against income and principal. (Effective January 1, 1985.) (1) The following charges shall be made against income:

(a) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs;

(b) If the trustee deems the same to be appropriate under the standards in RCW 11.104.020(1)(c), a reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles; no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on January 1, 1972 for which the trustee is not then making an allowance for depreciation;

(c) One-half of court costs, attorney's fees, and other fees on periodic accountings, unless the court directs otherwise;

(d) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;

(e) One-half of the trustee's regular compensation, whether based on a percentage of principal or income, and all expenses reasonably incurred for current management of principal and application of income;

(f) All expenses reasonably incurred for current management of principal and application of income; and

(g) Any tax levied upon receipts allocated to income under this chapter or the trust instrument and payable by the trustee.

(2) If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

(3) The following charges shall be made against principal:

(a) Trustee's compensation not chargeable to income under subsections (1)(d) and (1)(e) of this section, special compensation of trustees, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;

(b) Charges not provided for in subsection (1) of this section, including the cost of investing and reinvesting principal, the payments on principal of an indebtedness (including a mortgage amortized by periodic payments of principal), expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;

(c) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection (1)(b) of this section and by RCW 11.104.080;

(d) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the tax authority; and

(e) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest, whether on account of direct or indirect borrowing for the purpose of paying those taxes, and penalties, even though the income beneficiary also has rights in the principal.

(4) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under RCW 11.104.040. [1984 c 149 § 126; 1971 c 74 § 13.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.106

TRUSTEES' ACCOUNTING ACT

Sections

- 11.106.010 Scope of chapter—Exceptions. (Effective January 1, 1985.)
- 11.106.020 Trustee's annual statement. (Effective January 1, 1985.)
- 11.106.030 Intermediate and final accounts—Contents—Filing. (Effective January 1, 1985.)
- 11.106.040 Account—Court may require—Petition. (Effective January 1, 1985.)
- 11.106.050 Account filed—Return day—Notice. (Effective January 1, 1985.)
- 11.106.060 Account filed—Objections—Appointment of guardians ad litem—Representatives. (Effective January 1, 1985.)
- 11.106.070 Court to determine accuracy, validity—Decree. (Effective January 1, 1985.)
- 11.106.080 Effect of decree. (Effective January 1, 1985.)
- 11.106.090 Appeal from decree. (Effective January 1, 1985.)
- 11.106.100 Waiver of accounting by beneficiary. (Effective January 1, 1985.)
- 11.106.110 Modification under chapter 11.97 RCW—How constituted. (Effective January 1, 1985.)

11.106.010 Scope of chapter—Exceptions. (Effective January 1, 1985.) This chapter does not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiaries, investment trusts, voting trusts, insurance trusts prior to the death of the insured, trusts in the nature of mortgages or pledges, trusts created by judgment or decree of a federal court or of the superior court when not sitting in probate, liquidation trusts or trusts for the sole purpose of paying dividends, interest or interest coupons, salaries, wages or pensions; nor does this chapter apply to personal representatives. [1984 c 149 § 128; 1955 c 33 § 30.30.010. Prior: 1951 c 226 § 10. Formerly RCW 30.30.010.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.020 Trustee's annual statement. (Effective January 1, 1985.) The trustee or trustees appointed by any will, deed, or agreement executed shall mail or deliver at least annually to each adult income trust beneficiary a written itemized statement of all current receipts and disbursements made by the trustee of the funds of the trust both principal and income, and upon the request of any such beneficiary shall furnish the beneficiary an itemized statement of all property then held by that trustee, and may also file any such statement in the superior court of the county in which the trustee or one of the trustees resides. [1984 c 149 § 129; 1955 c 33 § 30.30.020. Prior: 1951 c 226 § 2. Formerly RCW 30.30.020.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Trust provisions may relieve trustee from duty, restriction, or liability imposed by statute: RCW 11.97.010.

11.106.030 Intermediate and final accounts—Contents—Filing. (Effective January 1, 1985.) In addition to the statement required by RCW 11.106.020

any such trustee or trustees whenever it or they so desire, may file in the superior court of the county in which the trustees or one of the trustees resides an intermediate account under oath showing:

- (1) The period covered by the account;
- (2) The total principal with which the trustee is chargeable according to the last preceding account or the inventory if there is no preceding account;
- (3) An itemized statement of all principal funds received and disbursed during such period;
- (4) An itemized statement of all income received and disbursed during such period, unless waived;
- (5) The balance of such principal and income remaining at the close of such period and how invested;
- (6) The names and addresses of all living beneficiaries, including contingent beneficiaries, of the trust, and a statement as to any such beneficiary known to be under legal disability;
- (7) A description of any possible unborn or unascertained beneficiary and his interest in the trust fund.

After the time for termination of the trust has arrived, the trustee or trustees may also file a final account in similar manner. [1984 c 149 § 130; 1955 c 33 § 30.30.030. Prior: 1951 c 226 § 3. Formerly RCW 30.30.030.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.040 Account—Court may require—Petition. (Effective January 1, 1985.) Upon the petition under chapter 11.96 RCW of any settlor or of any beneficiary of such a trust after due notice as provided in chapter 11.96 RCW to the trustee the superior court in the county where the trustee or one of the trustees resides may direct the trustee or trustees to file in the court an account at any time after one year from the day on which such a report was last filed, or if none, then after one year from the inception of the trust. [1984 c 149 § 131; 1955 c 33 § 30.30.040. Prior: 1951 c 226 § 4. Formerly RCW 30.30.040.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.050 Account filed—Return day—Notice. (Effective January 1, 1985.) When any account has been filed pursuant to RCW 11.106.040, the clerk of the court where filed shall fix a return day therefor as provided in RCW 11.96.090 and issue a notice as provided in RCW 11.96.090. The notice shall state the time and place for the return date, the name or names of the trustee or trustees who have filed the account, that the account has been filed, that the court is asked to settle the account, and that any objections or exceptions to the account must be filed with the clerk of the court on or before the return date. [1984 c 149 § 132; 1955 c 33 § 30.30.050. Prior: 1951 c 226 § 5. Formerly RCW 30.30.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.060 Account filed—Objections—Appointment of guardians ad litem—Representatives.

(Effective January 1, 1985.) Upon or before the return date any beneficiary of the trust may file the beneficiary's written objections or exceptions to the account filed or to any action of the trustee or trustees set forth in the account. The court shall appoint guardians ad litem as provided in RCW 11.96.180 and the court may allow representatives to be appointed under RCW 11.96.110 and 11.96.170 to represent the persons listed in those sections. [1984 c 149 § 133; 1977 ex.s. c 80 § 31; 1955 c 33 § 30.30.060. Prior: 1951 c 226 § 6. Formerly RCW 30.30.060.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

11.106.070 Court to determine accuracy, validity—Decree. (Effective January 1, 1985.) Upon the return date or at some later date fixed by the court if so requested by one or more of the parties, the court without the intervention of a jury and after hearing all the evidence submitted shall determine the correctness of the account and the validity and propriety of all actions of the trustee or trustees set forth in the account including the purchase, retention, and disposition of any of the property and funds of the trust, and shall render its decree either approving or disapproving the account or any part of it, and surcharging the trustee or trustees for all losses, if any, caused by negligent or wilful breaches of trust. [1984 c 149 § 134; 1955 c 33 § 30.30.070. Prior: 1951 c 226 § 7. Formerly RCW 30.30.070.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.080 Effect of decree. (Effective January 1, 1985.) The decree rendered under RCW 11.106.070 shall be deemed final, conclusive, and binding upon all the parties interested including all incompetent, unborn, and unascertained beneficiaries of the trust subject only to the right of appeal under RCW 11.106.090. [1984 c 149 § 135; 1955 c 33 § 30.30.080. Prior: 1951 c 226 § 8. Formerly RCW 30.30.080.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.090 Appeal from decree. (Effective January 1, 1985.) The decree rendered under RCW 11.106.070 shall be a final order from which any party in interest may appeal as in civil actions to the supreme court or the court of appeals of the state of Washington. [1984 c 149 § 136; 1971 c 81 § 80; 1955 c 33 § 30.30.090. Prior: 1951 c 226 § 9. Formerly RCW 30.30.090.]

Rules of court: Method of appellate review superseded by RAP 2.2(a)(3), 18.22.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.100 Waiver of accounting by beneficiary. (Effective January 1, 1985.) Any adult beneficiary entitled to an accounting under either RCW 11.106.020 or 11.106.030 may waive such an accounting by a separate

instrument delivered to the trustee. [1984 c 149 § 137; 1955 c 33 § 30.30.100. Prior: 1951 c 226 § 11. Formerly RCW 30.30.100.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.106.110 Modification under chapter 11.97 RCW—How constituted. (Effective January 1, 1985.)

This chapter is declared to be of similar import to the uniform trustees' accounting act. Any modification under chapter 11.97 RCW, including waiver, of the requirements of this chapter in any will, deed, or agreement heretofore or hereafter executed shall be given effect whether the waiver refers to the uniform trustees' accounting act by name or other reference or to any other act of like or similar import. [1984 c 149 § 138; 1955 c 33 § 30.30.110. Prior: 1951 c 226 § 12. Formerly RCW 30.30.110.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.108

TRUST GIFT DISTRIBUTION

Sections

- 11.108.010 Definitions.
- 11.108.020 Marital deduction gift—Compliance with internal revenue code—Intent.
- 11.108.030 Pecuniary bequests—Valuation of assets if distribution other than money.
- 11.108.040 Construction of certain marital deduction formula bequests.
- 11.108.050 Marital deduction gift in trust.
- 11.108.060 Marital deduction gift—Six months' survivorship requirement.
- 11.108.900 Application of chapter.

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

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) The term "marital deduction" means the federal estate tax deduction allowed for transfers under section 2056 of the internal revenue code.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction.

(5) The term "governing instrument" includes a will and codicils, irrevocable, and revocable trusts.

(6) "Fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) References to the "internal revenue code" are to the United States internal revenue code of 1954, as it is amended from time to time. Each reference to a section

of the internal revenue code refers as well to any subsequent provisions of law enacted in its place.

(8) The term "gift" refers to all legacies, devises, and bequests made in a governing instrument. [1984 c 149 § 140.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.020 Marital deduction gift—Compliance with internal revenue code—Intent. If a governing instrument contains a marital deduction gift, the governing instrument, including any power, duty, or discretionary authority given to the fiduciary, shall be construed to comply with the marital deduction provisions of the internal revenue code and the regulations thereunder in order to conform to that intent. Whether the governing instrument contains a marital deduction depends upon the intent of the testator at the time the governing instrument is executed. If the testator has adequately evidenced an intention to make a marital deduction gift, the fiduciary shall not take any action or have any power that may impair that deduction. This section shall neither require nor prohibit a fiduciary from making the election referred to in section 2056(b)(7) of the internal revenue code. [1984 c 149 § 141.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.030 Pecuniary bequests—Valuation of assets if distribution other than money. (1) If a governing instrument authorizes the fiduciary to satisfy a pecuniary bequest in whole or in part by distribution of property other than money, the assets selected for that purpose shall be valued at their respective fair market values on the date or dates of distribution, unless the governing instrument expressly provides otherwise. If the governing instrument permits the fiduciary to value the assets selected for the distribution as of a date other than the date or dates of distribution, then, unless the governing instrument expressly provides otherwise, the assets selected by the fiduciary for that purpose shall have an aggregate fair market value on the date or dates of distribution which, when added to any cash distributed, will amount to no less than the amount of that gift as stated in, or determined by, the governing instrument.

(2) A marital deduction gift shall be satisfied only with assets that qualify for those deductions. [1984 c 149 § 142.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.040 Construction of certain marital deduction formula bequests. (1) If a testator, under the terms of a governing instrument executed prior to September 12, 1981, leaves outright to or in trust for the benefit of that testator's surviving spouse an amount or fractional share of that testator's estate or a trust estate expressed in terms of one-half of that testator's federal adjusted gross estate, or by any other reference to the maximum estate tax marital deduction allowable under federal law

without referring, either in that governing instrument or in any codicil or amendment thereto, specifically to the unlimited federal estate tax marital deduction enacted as part of the economic recovery tax act of 1981, such expression shall, unless subsection (1) or (2) of this section applies, be construed as referring to the unlimited federal estate tax marital deduction, and also as expressing such amount or fractional share, as the case may be, in terms of the minimum amount which will cause the least possible amount of federal estate tax to be payable as a result of the testator's death, taking into account other property passing to the surviving spouse that qualifies for the marital deduction, at the value at which it qualifies, and also taking into account all credits against the federal estate tax, but only to the extent that the use of these credits do not increase the death tax payable.

(2) If this subsection applies to a testator, such expression shall be construed as referring to the estate tax marital deduction allowed by federal law immediately prior to the enactment of the unlimited estate tax marital deduction as a part of the economic recovery tax act of 1981. This subsection applies if subsection (3) of this section does not apply and:

(a) The application of this subsection to the testator will not cause an increase in the federal estate taxes payable as a result of the testator's death over the amount of such taxes which would be payable if subsection (1) of this section applied; or

(b) The testator is survived by a blood or adopted descendant who is not also a blood or adopted descendant of the testator's surviving spouse, unless such person or persons have entered into an agreement under the dispute resolution procedures in chapter 11.96 RCW; or

(c) The testator amended the governing instrument containing such expression after December 31, 1981, without amending such expression to refer expressly to the unlimited federal estate tax marital deduction.

(3) If the governing instrument contains language expressly stating that federal law of a particular time prior to January 1, 1982, is to govern the construction or interpretation of such expression, the expression shall be construed as referring to the marital deduction allowable under federal law in force and effect as of that time.

(4) If subsection (2) or (3) of this section applies to the testator and if the expression contains any provision reducing the amount or the fractional share left outright to or in trust for the benefit of the surviving spouse by other property passing to the surviving spouse and qualifying for the federal estate tax marital deduction, the provision shall not be construed as referring to any property that the personal representative of the testator's estate or other authorized fiduciary elects to qualify for the federal estate tax marital deduction as qualified terminable interest property. If subsection (1) of this section applies to the testator, any such provision shall be construed as referring to any property that the personal representative of the testator's estate or other authorized fiduciary elects to qualify for the federal estate tax marital deduction as qualified terminable interest property.

(5) This section is effective with respect to testators dying after December 31, 1982. [1984 c 149 § 143.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.050 Marital deduction gift in trust. If a governing instrument indicates the testator's intention to make a marital deduction gift in trust, in addition to the other provisions of this section, each of the following also applies to the trust:

(1) The only income beneficiary of a marital deduction trust is the testator's surviving spouse;

(2) The income beneficiary is entitled to all of the trust income until the trust terminates;

(3) The trust income is payable to the income beneficiary not less frequently than annually; and

(4) Except in the case of qualified terminable interest property resulting from an election under section 2056(b)(7) of the internal revenue code, upon termination of the trust, all of the remaining trust assets, including accrued or undistributed income, pass either to the income beneficiary or under the exercise of a general power of appointment granted to the income beneficiary in favor of the income beneficiary's estate or to any other person or entity in trust or outright. The general power of appointment is exercisable by the income beneficiary alone and in all events, and the income beneficiary, or a fiduciary acting in behalf of the income beneficiary if he or she is then a minor or incompetent, may exercise it in a will or an instrument other than a will unless the instrument creating the power specifically directs otherwise.

The exercise of the general power of appointment provided in this section shall be done only by express written reference to this general power of appointment in a will or inter vivos trust instrument executed by the income beneficiary. [1984 c 149 § 144.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.060 Marital deduction gift—Six months' survivorship requirement. If a governing instrument contains a marital deduction gift, whether outright or in trust and whether there is a specific reference to this section, any survivorship requirement expressed in the governing instrument in excess of six months does not apply to property passing under a marital deduction, and in addition, is limited to a six-month period beginning with the testator's death. [1984 c 149 § 145.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.108.900 Application of chapter. This chapter applies to any distribution made after March 7, 1984, whether the testator died before or after that date. This chapter shall not apply to any governing instrument the terms of which expressly or by necessary implication make this chapter inapplicable. The judicial and nonjudicial dispute resolution procedures of chapter 11.96 RCW apply to this chapter. [1984 c 149 § 146.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 11.110 CHARITABLE TRUSTS

Sections

- 11.110.010 Purpose. (Recodification effective January 1, 1985.)
- 11.110.020 Definitions. (Recodification effective January 1, 1985.)
- 11.110.040 Information, documents, and reports are public records—Inspection—Publication. (Recodification effective January 1, 1985.)
- 11.110.050 Register of trustees—Establishment and maintenance. (Effective January 1, 1985.)
- 11.110.060 Instrument establishing trust, inventory of assets, tax exempt status or claim, tax return to be filed. (Effective January 1, 1985.)
- 11.110.070 Reports of trustee—Filing—Rules and regulations. (Recodification effective January 1, 1985.)
- 11.110.073 Reports of trustee—Trustees exempt from RCW 11.110.070. (Effective January 1, 1985.)
- 11.110.075 Trusts not exclusively for charitable purposes—Instrument and information not public—Filings and reporting, when required. (Effective January 1, 1985.)
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- 11.110.200 Tax Reform Act of 1969, state implementation—Application of RCW 11.110.200 through 11.110.260 to certain trusts defined in federal code. (Effective January 1, 1985.)
- 11.110.210 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain prohibiting provisions. (Effective January 1, 1985.)
- 11.110.220 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain certain provisions for distribution. (Effective January 1, 1985.)
- 11.110.230 Tax Reform Act of 1969, state implementation—Rights, powers, of courts, attorney general, not impaired. (Effective January 1, 1985.)
- 11.110.240 Tax Reform Act of 1969, state implementation—Construction of references to federal code. (Effective January 1, 1985.)
- 11.110.250 Tax Reform Act of 1969, state implementation—Application to trust created after June 10, 1971, or amendment to existing trust. (Effective January 1, 1985.)
- 11.110.260 Tax Reform Act of 1969, state implementation—Severability—RCW 11.110.200 through 11.110.260. (Effective January 1, 1985.)
- 11.110.270 Tax Reform Act of 1969, state implementation—Not for profit corporations. (Recodification effective January 1, 1985.)
- 11.110.900 Severability—1967 ex.s. c 53. (Recodification effective January 1, 1985.)

11.110.010 Purpose. (Recodification effective January 1, 1985.) The purpose of this chapter is to facilitate public supervision over the administration of public

charitable trusts and similar relationships and to clarify and implement the powers and duties of the attorney general with relation thereto. [1967 ex.s. c 53 § 1. Formerly RCW 19.10.010.]

11.110.020 Definitions. (Recodification effective January 1, 1985.) When used in this chapter, unless the context otherwise requires:

"Person" means an individual, organization, group, association, partnership, corporation, or any combination of them.

"Trustee" means (1) any person holding property in trust for a public charitable purpose; except the United States, its states, territories, and possessions, the District of Columbia, Puerto Rico, and their agencies and subdivisions; and (2) a corporation formed for the administration of a charitable trust or holding assets subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes: *Provided*, That the term "trustee" does not apply to (a) religious corporations duly organized and operated in good faith as religious organizations, which have received a declaration of current tax exempt status from the government of the United States; their duly organized branches or chapters; and charities, agencies, and organizations affiliated with and forming an integral part of said organization, or operated, supervised, or controlled directly by such religious corporations nor any officer of any such religious organization who holds property for religious purposes: *Provided*, That if such organization has not received from the United States government a declaration of current tax exempt status prior to the time it receives property under the terms of a charitable trust, this exemption shall be applicable for two years only from the time of receiving such property, or until such tax exempt status is finally declared, whichever is sooner; or (b) an educational institution which is nonprofit and charitable, having a program of primary, secondary, or collegiate instruction comparable in scope to that of any public school or college operated by the state of Washington or any of its school districts. [1971 ex.s. c 226 § 1; 1967 ex.s. c 53 § 2. Formerly RCW 19.10.020.]

11.110.040 Information, documents, and reports are public records—Inspection—Publication. (Recodification effective January 1, 1985.) All information, documents, and reports filed with the attorney general under this chapter are matters of public record and shall be open to public inspection, subject to reasonable regulation: *Provided*, That the attorney general shall withhold from public inspection any trust instrument so filed whose content is not exclusively for charitable purposes. The attorney general may publish, on a periodic or other basis, such information as may be necessary or appropriate in the public interest concerning the registration, reports, and information filed with him or any other matters relevant to the administration and enforcement of this chapter. [1967 ex.s. c 53 § 4. Formerly RCW 19.10.040.]

11.110.050 Register of trustees—Establishment and maintenance. (Effective January 1, 1985.) The attorney general shall establish and maintain a register of trustees as defined in RCW 11.110.020 and, to that end, shall conduct whatever investigation is necessary, and shall obtain from public records, court officers, taxing authorities, trustees, and other sources whatever information, copies of instruments, reports, and records are needed, for the establishment and maintenance of the register. [1984 c 149 § 149; 1967 ex.s. c 53 § 5. Formerly RCW 19.10.050.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.060 Instrument establishing trust, inventory of assets, tax exempt status or claim, tax return to be filed. (Effective January 1, 1985.) Every trustee shall file with the attorney general within two months after receiving possession or control of the trust corpus a copy of the instrument establishing his title, powers, or duties, and an inventory of the assets of such charitable trust. In addition, trustees exempted from the provisions of RCW 11.110.070 by RCW 11.110.073 shall file with the attorney general a copy of the declaration of the tax-exempt status or other basis of the claim for such exemption; a copy of the instrument establishing the trustee's title, powers or duties; an inventory of the assets of such trust; and, annually, a copy of each publicly available United States tax or information return or report of the trust which the trustee files with the internal revenue service. The trustees of charitable trusts existing at the time this chapter [takes effect] or on August 9, 1971, shall comply with this section within six months thereafter. [1984 c 149 § 150; 1971 ex.s. c 226 § 2; 1967 ex.s. c 53 § 6. Formerly RCW 19.10.060.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.070 Reports of trustee—Filing—Rules and regulations. (Recodification effective January 1, 1985.) Except as otherwise provided every trustee subject to this chapter shall file with the attorney general annual reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the trustee, in accordance with rules and regulations of the attorney general.

The attorney general shall make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing them. He may classify trusts and other relationships concerning property held for a charitable purpose as to purpose, nature of assets, duration of the trust or other relationship, amount of assets, amounts to be devoted to charitable purposes, nature of trustee, or otherwise, and may establish different rules for the different classes as to time and nature of the reports required, to the ends (1) that he shall receive reasonably current, periodic reports as to all charitable trusts or other relationships of a similar nature which will enable him to ascertain whether they are being properly administered, and (2) that periodic reports shall not unreasonably add to the expense of the

administration of charitable trusts and similar relationships. The attorney general may suspend the filing of reports as to a particular charitable trust or relationship for a reasonable, specifically designated time upon written application of the trustee filed with the attorney general after the attorney general has filed in the register of charitable trusts a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports are not required for proper supervision by his office.

A copy of an account filed by the trustee in any court having jurisdiction of the trust or other relationship, if the account substantially complies with the rules and regulations of the attorney general, may be filed as a report required by this section.

The first report for a trust or similar relationship hereafter established, unless the filing thereof is suspended as herein provided, shall be filed not later than one year after any part of the income or principal is authorized or required to be applied to a charitable purpose. If any part of the income or principal of a trust previously established is authorized or required to be applied to a charitable purpose at the time this act takes effect, the first report, unless the filing thereof is suspended, shall be filed within six months after *the effective date of this act. [1971 ex.s. c 226 § 3; 1967 ex.s. c 53 § 7. Formerly RCW 19.10.070.]

*Reviser's note: The effective date of this act [1967 ex.s. c 53] was July 30, 1967.

11.110.073 Reports of trustee—Trustees exempt from RCW 11.110.070. (Effective January 1, 1985.) The following trustees shall be exempt from the provisions of RCW 11.110.070, but shall file the information required in RCW 11.110.060:

(1) A bank or trust company subject to examination by the supervisor of banking of the state of Washington, the comptroller of the currency of the United States or the board of governors of the federal reserve system; which such bank or trust company is acting as trustee, executor or court-appointed fiduciary: *Provided*, That a bank or trust company which is a co-fiduciary of a trust shall be deemed to be the sole fiduciary of such trust under this section, if the bank or trust company is custodian of the books and records of the trust and has the responsibility for preparing the reports and returns which are filed with the internal revenue service;

(2) The governing body of a nonprofit community foundation or other nonprofit foundation incorporated for charitable purposes, contributions to which are currently allowed as charitable deductions under the United States income tax laws;

(3) The governing body of a hospital which is nonprofit and charitable, other than a hospital initially formed as a trustee pursuant to or in connection with the terms of a charitable trust. [1984 c 149 § 153; 1971 ex.s. c 226 § 4. Formerly RCW 19.10.073.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.075 Trusts not exclusively for charitable purposes—Instrument and information not public—Filings and reporting, when required. (Effective January 1, 1985.) A trust is not exclusively for charitable purposes, within the meaning of RCW 11.110.040, when the instrument creating it contains a trust for several or mixed purposes, and any one or more of such purposes is not charitable within the meaning of RCW 11.110.020, as enacted or hereafter amended. Such instrument shall be withheld from public inspection by the attorney general and no information as to such noncharitable purpose shall be made public.

Annual reporting of such trusts to the attorney general, as required by RCW 11.110.060 or 11.110.070, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

When a trust consists of a vested charitable remainder preceded by a life estate, a copy of the instrument shall be filed by the trustee or by the life tenant, within two months after commencement of the life estate.

If the trust instrument contains only contingent gifts or remainders to charitable purposes, no charitable trust shall be deemed created until a charitable gift or remainder is legally vested. The first registration or report of such trust shall be filed within two months after trust income or principal is authorized or required to be used for a charitable purpose. [1984 c 149 § 154; 1971 ex.s. c 226 § 5. Formerly RCW 19.10.075.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.080 Custodian of court records to furnish copies to attorney general—List of tax exemption applications to be filed. (Recodification effective January 1, 1985.) The custodian of the records of a court having jurisdiction of probate matters or of charitable trusts shall furnish within two months after receiving possession or control thereof such copies of papers, records, and files of his office relating to the subject of this chapter as the attorney general shall require.

Every officer, agency, board or commission of this state receiving applications for exemption from taxation of any charitable trust or similar relationship in which the trustee is subject to this chapter shall annually file with the attorney general a list of all applications received during the year. [1967 ex.s. c 53 § 8. Formerly RCW 19.10.080.]

11.110.090 Uniformity of chapter with laws of other states. (Recodification effective January 1, 1985.) It is the purpose of this chapter to make uniform the laws of this and other states on the subject of charitable trusts and similar relationships. Recognizing the necessity for uniform application and enforcement of this chapter, its provisions are hereby declared mandatory and they shall not be superseded by the provisions of any trust instrument or similar instrument to the contrary. [1967 ex.s. c 53 § 9. Formerly RCW 19.10.090.]

11.110.100 Investigations by attorney general authorized—Appearance and production of books, papers, documents, etc., may be required. (Recodification effective January 1, 1985.) The attorney general may investigate transactions and relationships of trustees and other persons subject to this chapter for the purpose of determining whether the trust or other relationship is administered according to law and the terms and purposes of the trust, or to determine compliance with this chapter in any other respect. He may require any officer, agent, trustee, fiduciary, beneficiary, or other person, to appear, at a time and place designated by the attorney general in the county where the person resides or is found, to give information under oath and to produce books, memoranda, papers, documents of title, and evidence of assets, liabilities, receipts, or disbursements in the possession or control of the person ordered to appear. [1967 ex.s. c 53 § 10. Formerly RCW 19.10.100.]

11.110.110 Order to appear—Effect—Enforcement—Court review. (Effective January 1, 1985.) When the attorney general requires the attendance of any person, as provided in RCW 11.110.100, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the supreme court or the court of appeals by certiorari or other appropriate proceeding. [1984 c 149 § 157; 1971 c 81 § 64; 1967 ex.s. c 53 § 11. Formerly RCW 19.10.110.]

Rules of court: Writ procedure superseded by RAP 2.1(b), 2.2, 18.22.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.120 Proceedings to secure compliance and proper trust administration—Attorney general to be notified of judicial proceedings involving charitable trust—Powers and duties additional. (Effective January 1, 1985.) The attorney general may institute appropriate proceedings to secure compliance with this chapter and to secure the proper administration of any trust or other relationship to which this chapter applies. He shall be notified of all judicial proceedings involving or affecting the charitable trust or its administration in which, at common law, he is a necessary or proper party as representative of the public beneficiaries. The notification shall be given as provided in RCW 11.96.100, but

this notice requirement may be waived at the discretion of the attorney general. The powers and duties of the attorney general provided in this chapter are in addition to his existing powers and duties, and are not to be construed to limit or to restrict the exercise of the powers or the performance of the duties of the attorney general or of any prosecuting attorney which they may exercise or perform under any other provision of law. Except as provided herein, nothing in this chapter shall impair or restrict the jurisdiction of any court with respect to any of the matters covered by it. [1984 c 149 § 158; 1967 ex.s. c 53 § 12. Formerly RCW 19.10.120.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.125 Violations—Refusal to file reports, perform duties, etc. (Recodification effective January 1, 1985.) The wilful refusal by a trustee to make or file any report or to perform any other duties expressly required by this chapter, or to comply with any valid rule or regulation promulgated by the attorney general under this chapter, shall constitute a breach of trust and a violation of this chapter. [1971 ex.s. c 226 § 6. Formerly RCW 19.10.125.]

11.110.130 Violations—Civil action may be prosecuted. (Recodification effective January 1, 1985.) A civil action for a violation of this chapter may be prosecuted by the attorney general or by a prosecuting attorney designated by the attorney general. [1967 ex.s. c 53 § 13. Formerly RCW 19.10.130.]

11.110.140 Penalty. (Recodification effective January 1, 1985.) Every false statement of material fact knowingly made or caused to be made by any person in any statement or report filed under this chapter and every other violation of this chapter is a gross misdemeanor. [1967 ex.s. c 53 § 14. Formerly RCW 19.10.140.]

11.110.200 Tax Reform Act of 1969, state implementation—Application of RCW 11.110.200 through 11.110.260 to certain trusts defined in federal code. (Effective January 1, 1985.) RCW 11.110.200 through 11.110.260 shall apply only to trusts which are "private foundations" as defined in section 509 of the Internal Revenue Code of 1954, "charitable trusts" as described in section 4947(a)(1) of the Internal Revenue Code of 1954, or "split-interest trusts" as described in section 4947(a)(2) of the Internal Revenue Code of 1954. With respect to any such trust created after December 31, 1969, RCW 11.110.200 through 11.110.260 shall apply from such trust's creation. With respect to any such trust created before January 1, 1970, RCW 11.110.200 through 11.110.260 shall apply only to such trust's federal taxable years beginning after December 31, 1971. [1984 c 149 § 161; 1971 c 58 § 1. Formerly RCW 19.10.200.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.210 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain prohibiting provisions. (Effective January 1, 1985.) The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies shall be deemed to contain provisions prohibiting the trustee from:

(1) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954;

(2) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1954;

(3) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1954; and

(4) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1954:

Provided, That this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the Internal Revenue Code of 1954. [1984 c 149 § 162; 1971 c 58 § 2. Formerly RCW 19.10.210.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.220 Tax Reform Act of 1969, state implementation—Trust instruments deemed to contain certain provisions for distribution. (Effective January 1, 1985.) The trust instrument of each trust to which RCW 11.110.200 through 11.110.260 applies, except "split-interest" trusts, shall be deemed to contain a provision requiring the trustee to distribute, for the purposes specified in the trust instrument, for each taxable year of the trust, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954. [1984 c 149 § 163; 1971 c 58 § 3. Formerly RCW 19.10.220.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.230 Tax Reform Act of 1969, state implementation—Rights, powers, of courts, attorney general, not impaired. (Effective January 1, 1985.) Nothing in RCW 11.110.200 through 11.110.260 shall impair the rights and powers of the courts or the attorney general of this state with respect to any trust. [1984 c 149 § 164; 1971 c 58 § 4. Formerly RCW 19.10.230.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.240 Tax Reform Act of 1969, state implementation—Construction of references to federal code. (Effective January 1, 1985.) All references to sections of the Internal Revenue Code of 1954 shall include all amendments thereto adopted by the Congress of the United States on or before January 1, 1985. [1984 c 149 § 165; 1982 1st ex.s. c 41 § 3; 1971 c 58 § 5. Formerly RCW 19.10.240.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.250 Tax Reform Act of 1969, state implementation—Application to trust created after June 10, 1971, or amendment to existing trust. (Effective January 1, 1985.) Nothing in RCW 11.110.200 through 11.110.260 shall limit the power of a person who creates a trust after June 10, 1971 or the power of a person who has retained or has been granted the right to amend a trust created before June 10, 1971, to include a specific provision in the trust instrument or an amendment thereto, as the case may be, which provides that some or all of the provisions of RCW 11.110.210 and 11.110.220 shall have no application to such trust. [1984 c 149 § 167; 1971 c 58 § 6. Formerly RCW 19.10.250.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.260 Tax Reform Act of 1969, state implementation—Severability—RCW 11.110.200 through 11.110.260. (Effective January 1, 1985.) If any provision of RCW 11.110.200 through 11.110.260 or the application thereof to any trust is held invalid, such invalidity shall not affect the other provisions or applications of RCW 11.110.200 through 11.110.260 which can be given effect without the invalid provision or application, and to this end the provisions of RCW 11.110.200 through 11.110.260 are declared to be severable. [1984 c 149 § 168; 1971 c 58 § 7. Formerly RCW 19.10.260.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

11.110.270 Tax Reform Act of 1969, state implementation—Not for profit corporations. (Recodification effective January 1, 1985.) See RCW 24.40.010 through 24.40.070.

11.110.900 Severability—1967 ex.s. c 53. (Recodification effective January 1, 1985.) 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 53 § 15. Formerly RCW 19.10.900.]

Title 12

JUSTICE COURTS—CIVIL PROCEDURE

Chapters

- 12.16** Witnesses and depositions.
12.20 Judgments.
12.24 Execution of judgments.
12.40 Small claims.

Chapter 12.16

WITNESSES AND DEPOSITIONS

Sections

- 12.16.010 Repealed.
 12.16.015 District court may compel attendance of witness.
 12.16.100 through 12.16.120 Repealed.

12.16.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

12.16.015 District court may compel attendance of witness. Any person may be compelled to attend as a witness before a district court in accordance with chapter 5.56 RCW. [1984 c 258 § 702.]

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

12.16.100 through 12.16.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 12.20

JUDGMENTS

Sections

- 12.20.060 Judgment for costs—Attorney's fee.

12.20.060 Judgment for costs—Attorney's fee. When the prevailing party in district court is entitled to recover costs as authorized in RCW 4.84.010 in a civil action, the judge shall add the amount thereof to the judgment; in case of failure of the plaintiff to recover or of dismissal of the action, the judge shall enter up a judgment in favor of the defendant for the amount of his costs; and in case any party so entitled to costs is represented in the action by an attorney, the judge shall include attorney's fees of twenty-five dollars as part of the costs: *Provided, however,* That the plaintiff shall not be entitled to such attorney fee unless he obtains, exclusive of costs, a judgment in the sum of five dollars or more. [1984 c 258 § 89; 1975-'76 2nd ex.s. c 30 § 1; 1915 c 43 § 1; 1893 c 12 § 1; Code 1881 § 1785; 1873 p 350 § 84; 1854 p 237 § 85; RRS § 1862.]

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

Attorneys' fees as costs in damage actions of seven thousand five hundred dollars or less; ten thousand dollars or less after July 1, 1985: RCW 4.84.250 through 4.84.300.

Chapter 12.24

EXECUTION OF JUDGMENTS

Sections

- 12.24.100 No execution after ten years—Real estate liens—Commencement—Duration.
 12.24.135 Execution to include costs and attorneys' fees.

12.24.100 No execution after ten years—Real estate liens—Commencement—Duration. Execution for the enforcement of a judgment in a justice's court, may be issued on the application of the party entitled thereto, in the manner hereinbefore prescribed; but after the lapse of ten years from the date of the judgment, no execution shall issue. A lien on real estate of a judgment debtor must be commenced under RCW 4.56.200(3) within ten years from the date of judgment, and shall run for a period not to exceed ten years from the date of the judgment. [1984 c 21 § 1; Code 1881 § 1795; 1873 p 352 § 94; 1854 p 240 § 95; RRS § 1876.]

Application—1984 c 21 § 1: "Section 1 of this act applies to all judgments which have not expired before the effective date of this act [June 7, 1984]." [1984 c 21 § 2.]

12.24.135 Execution to include costs and attorneys' fees. In any proceeding brought under this chapter to enforce a judgment which has been certified under RCW 12.40.110, the execution issued by the justice shall include the amount of the judgment owed plus reasonable costs and reasonable attorneys' fees incurred by the judgment creditor in seeking enforcement of the judgment under this chapter. [1984 c 258 § 94; 1983 c 254 § 4.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.
Effective date—1983 c 254: See note following RCW 12.40.100.

Chapter 12.40

SMALL CLAIMS

Sections

- 12.40.010 Department authorized—Jurisdictional amount.
 12.40.020 Action, how commenced—Fee.
 12.40.025 Transfer of action to small claims department.
 12.40.030 Setting case for hearing.
 12.40.040 Service of notice of claim—Fee.
 12.40.050 Requisites of claim.
 12.40.060 Requisites of notice.
 12.40.070 Verification of claim.
 12.40.080 Hearing.
 12.40.090 Informal pleadings.
 12.40.100 Payment of monetary judgment.
 12.40.110 Procedure on nonpayment.
 12.40.120 Appeals.

12.40.010 Department authorized—Jurisdictional amount. In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court". The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed one thousand dollars. [1984 c 258 § 57; 1981 c 331 § 10; 1979 c 102 § 4; 1973

c 128 § 1; 1970 ex.s. c 83 § 1; 1963 c 123 § 1; 1919 c 187 § 1; RRS § 1777-1.]

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

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

Application, savings—Effective date—Severability—1979 c 102: See notes following RCW 3.66.020.

12.40.020 Action, how commenced—Fee. A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of ten dollars shall be paid when the claim is filed. [1984 c 258 § 58; 1919 c 187 § 2; RRS § 1777-2.]

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

12.40.025 Transfer of action to small claims department. A defendant in a district court proceeding in which the claim is within the jurisdictional amount for the small claims department may in accordance with court rules transfer the action to the small claims department. In the event of such a transfer the provisions of RCW 12.40.070 shall not be applicable if the plaintiff was an assignee of the claim at the time the action was commenced nor shall the provisions of RCW 12.40.080 prohibit an attorney from representing the plaintiff if he was the attorney of record for the plaintiff at the time the action was commenced. [1984 c 258 § 59; 1970 ex.s. c 83 § 2.]

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

12.40.030 Setting case for hearing. Upon filing of a claim, the court shall set a time for hearing of the matter and cause to be issued a notice of the claim which shall be served upon the defendant. [1984 c 258 § 60; 1981 c 330 § 3; 1980 c 162 § 11; 1963 c 123 § 2; 1919 c 187 § 3; RRS § 1777-3.]

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

Severability—1981 c 330: See note following RCW 3.62.060.

Severability—1980 c 162: See note following RCW 3.02.010.

12.40.040 Service of notice of claim—Fee. The notice of claim can be served either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. No other paper is to be served with the notice. The officer serving the notice shall be entitled to receive from the plaintiff, besides mileage, the fee specified in RCW 36.18.040 for such service; which sum, together with the filing fee named in *RCW 12.40.030, shall be added to any judgment given for plaintiff. [1984 c 258 § 61; 1981 c 194 § 3; 1970 ex.s. c 83 § 3; 1959 c 263 § 9; 1919 c 187 § 4; RRS § 1777-4.]

*Reviser's note: RCW 12.40.030 no longer refers to a filing fee; see instead RCW 12.40.020.

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

Severability—1981 c 194: See note following RCW 36.18.040.

12.40.050 Requisites of claim. A claim filed in the small claims department shall contain: (1) The name and address of the plaintiff; (2) a statement, in brief and concise form, of the nature and amount of the claim and when the claim accrued; and (3) the name and residence of the defendant, if known to the plaintiff, for the purpose of serving the notice of claim on the defendant. [1984 c 258 § 62; 1919 c 187 § 5; RRS § 1777-5.]

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

12.40.060 Requisites of notice. The notice of claim directed to the defendant shall contain: (1) The name and address of the plaintiff; (2) a brief and concise statement of the nature and amount of the claim; (3) a statement directing and requiring defendant to appear personally in the small claims department at a time certain, which shall not be less than five days from the date of service of the notice; and (4) a statement advising the defendant that in case of his or her failure to appear, judgment will be given against defendant for the amount of the claim. [1984 c 258 § 63; 1981 c 331 § 11; 1919 c 187 § 6; RRS § 1777-6.]

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

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

12.40.070 Verification of claim. A claim must be verified by the real claimant, and no claim shall be filed or prosecuted in the small claims department by the assignee of the claim. [1984 c 258 § 64; 1919 c 187 § 7; RRS § 1777-7.]

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

12.40.080 Hearing. No attorney at law, legal paraprofessional, nor any person other than the plaintiff and defendant, shall concern himself or herself or in any manner interfere with the prosecution or defense of litigation in the small claims department without the consent of the judge of the district court. If a corporation plaintiff is represented by an attorney at law, or legal paraprofessional, the judge shall at the request of the defendant transfer the case to the regular civil docket. In the small claims department it shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf by witnesses appearing at such hearing, and the judge may informally consult witnesses or otherwise investigate the controversy between the parties, and give judgment or make such orders as the judge may deem to be right, just and equitable for the disposition of the controversy. [1984 c 258 § 65; 1981 c 331 § 12; 1919 c 187 § 8; RRS § 1777-8.]

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

Court Congestion Reduction Act of 1981—Purpose—Severability—1981 c 331: See notes following RCW 2.32.070.

12.40.090 Informal pleadings. A formal pleading, other than the claim and notice, shall not be necessary to define the issue between the parties. The hearing and disposition of the actions shall be informal, with the sole object of dispensing speedy and quick justice between the litigants. An attachment, garnishment or execution shall not issue from the small claims department on any claim except as provided in this chapter. [1984 c 258 § 66; 1919 c 187 § 9; RRS § 1777-9.]

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

12.40.100 Payment of monetary judgment. If a monetary judgment or order is entered, it shall be the judgment debtor's duty to pay the judgment upon such terms and conditions as the judge shall prescribe. If the judgment is not paid to the prevailing party at the time the judgment is entered and the judgment debtor is present in court, the court may order a payment plan. [1984 c 258 § 67; 1983 c 254 § 1; 1919 c 187 § 10; RRS § 1777-10.]

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

Effective date—1983 c 254: "This act shall take effect on January 1, 1984." [1983 c 254 § 5.]

12.40.110 Procedure on nonpayment. (1) If the losing party fails to pay the judgment according to the terms and conditions thereof within twenty days or is in arrears on any payment plan, and the prevailing party so notifies the court, the judge before whom such hearing was had shall certify the judgment in substantially the following form:

Washington.
In the District Court of _____ County.

Plaintiff,
vs.

Defendant.

In the Small Claims Department.

This is to certify that: (1) In a certain action before me, the undersigned, had on this the ____ day of _____ 19__, wherein _____ was plaintiff and _____ defendant, jurisdiction of said defendant having been had by personal service (or otherwise) as provided by law, I then and there entered judgment against _____ in the sum of _____ Dollars; (2) the judgment has not been paid within twenty days or the period otherwise ordered by the court; and (3) pursuant to RCW 12.40..., the amount of the judgment is hereby increased by any costs of certification under this section and the amount specified in RCW 36.18.020(3).

Witness my hand this ____ day of _____, 19__.

District Judge sitting in the Small Claims Department.

(2) The judge shall forthwith enter the judgment transcript on the judgment docket of the district court;

and thereafter garnishment, execution, and other process on execution provided by law may issue thereon, as in other judgments of district courts.

(3) Transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases. [1984 c 258 § 68; 1983 c 254 § 3; 1975 1st ex.s. c 40 § 1; 1973 c 128 § 2; 1919 c 187 § 11; RRS § 1777-11.]

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

Effective date—1983 c 254: See note following RCW 12.40.100.

12.40.120 Appeals. No appeal shall be permitted from a judgment of the small claims department of the district court where the amount claimed was less than one hundred dollars nor shall any appeal be permitted by a party who requested the exercise of jurisdiction by the small claims department. [1984 c 258 § 69; 1970 ex.s. c 83 § 4.]

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

Title 13

JUVENILE COURTS AND JUVENILE OFFENDERS

Chapters

- 13.04 Basic juvenile court act.
13.32A Procedures for families in conflict.
13.34 Juvenile court act in cases relating to dependency of a child and the termination of a parent and child relationship.
13.40 Juvenile justice act of 1977.
13.50 Keeping and release of records by juvenile justice or care agencies.

Child

custody, action by relative: RCW 26.09.255.
domestic violence prevention: Chapter 26.50 RCW.

Chapter 13.04

BASIC JUVENILE COURT ACT
(Formerly: Juvenile courts)

Sections

- 13.04.030 Juvenile court—Exclusive original jurisdiction.

13.04.030 Juvenile court—Exclusive original jurisdiction. The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

- (1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;
(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170, as now or hereafter amended;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210, as now or hereafter amended;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

(5) Relating to children alleged to be or found to be in need of involuntary civil commitment as provided in chapter 72.23 RCW;

(6) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, as now or hereafter amended, unless:

(a) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110, as now or hereafter amended; or

(b) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: *Provided*, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: *Provided further*, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (6)(a) of this section: *Provided further*, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW; and

(8) Relating to termination of a diversion agreement under RCW 13.40.080 as now or hereafter amended, including a proceeding in which the divertee has attained eighteen years of age. [1984 c 272 § 1; 1981 c 299 § 1; 1980 c 128 § 6; 1979 c 155 § 3; 1977 ex.s. c 291 § 4; 1937 c 65 § 1; 1929 c 176 § 1; 1921 c 135 § 1; 1913 c 160 § 2; RRS § 1987-2.]

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Court commissioners: Chapter 2.24 RCW, state Constitution Art. 4 § 23.

Jurisdiction of superior courts: State Constitution Art. 4 § 6 (Amendment 65).

Chapter 13.32A

PROCEDURES FOR FAMILIES IN CONFLICT

Sections

- 13.32A.170 Alternative residential placement—Fact-finding hearing—Three-month placement disposition plan—Hearing, when—Approval or denial of petition—Contempt proceedings, when.
- 13.32A.190 Three-month placement dispositional order—Review of in subsequent hearings—Time limitation on out-of-home placement once hearings commence.

13.32A.170 Alternative residential placement—Fact-finding hearing—Three-month placement disposition plan—Hearing, when—Approval or denial of petition—Contempt proceedings, when. (1) The court shall hold a fact-finding hearing to consider a proper petition and may approve or deny alternative residential placement giving due weight to the intent of the legislature that families, absent compelling reasons to the contrary, shall remain together and that parents have the right to place reasonable rules and restrictions upon their children. The court may appoint legal counsel and/or a guardian ad litem to represent the child and advise parents of their right to be represented by legal counsel. The court may approve an order stating that the child shall be placed in a residence other than the home of his or her parent only if it is established by a preponderance of the evidence that:

(a) The petition is not precarious;

(b) The petitioner, if a parent or the child, has made a reasonable effort to resolve the conflict;

(c) The conflict which exists cannot be resolved by delivery of services to the family during continued placement of the child in the parental home; and

(d) Reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home.

The court may not grant a petition filed by the child or the department if it is established that the petition is based only upon a dislike of reasonable rules or reasonable discipline established by the parent.

(2) The order approving out-of-home placement shall direct the department to submit a disposition plan for a three-month placement of the child that is designed to reunite the family and resolve the family conflict. In making the order, the court shall further direct the department to make recommendations, as to which agency or person should have physical custody of the child, as to which parental powers should be awarded to such agency or person, and as to parental visitation rights. The court may direct the department to consider the cultural heritage of the child in making its recommendations.

(3) The hearing to consider the recommendations of the department for a three-month disposition plan shall be set no later than fourteen days after the approval of the court of a petition to approve alternative residential placement. Each party shall be notified of the time and place of such disposition hearing.

(4) If the court approves or denies a petition for an alternative residential placement, a written statement of the reasons shall be filed. If the court denies a petition requesting that a child be placed in a residence other than the home of his or her parent, the court shall enter an order requiring the child to remain at or return to the home of his or her parent.

(5) If the court denies the petition, the court shall impress upon the party filing the petition of the legislative intent to restrict the proceedings to situations where a family conflict is so great that it cannot be resolved by the provision of in-home services.

(6) A child who fails to comply with a court order directing that the child remain at or return to the home of his or her parent shall be subject to contempt proceedings, as provided in this chapter, but only if the non-compliance occurs within ninety calendar days after the day of the order. [1984 c 188 § 1; 1981 c 298 § 12; 1979 c 155 § 31.]

Severability—1981 c 298: See note following RCW 13.32A.040.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

13.32A.190 Three-month placement dispositional order—Review of in subsequent hearings—Time limitation on out-of-home placement once hearings commence. (1) Upon making a dispositional order under RCW 13.32A.180, the court shall schedule the matter on the calendar for review within three months, advise the parties of the date thereof, appoint legal counsel and/or a guardian ad litem to represent the child at the review hearing, advise parents of their right to be represented by legal counsel at the review hearing, and notify the parties of their rights to present evidence at the hearing. Where resources are available, the court shall encourage the parent and child to participate in mediation programs for reconciliation of their conflict.

(2) At the review hearing, the court shall approve or disapprove the continuation of the dispositional plan in accordance with the goal of resolving the conflict and reuniting the family which governed the initial approval. The court shall determine whether reasonable efforts have been made to reunify the family and make it possible for the child to return home. The court is authorized to discontinue the placement and order that the child return home if the court has reasonable grounds to believe that the parents have displayed concerted efforts to utilize services and resolve the conflict and the court has reason to believe that the child's refusal to return home is capricious. If out-of-home placement is continued, the court may modify the dispositional plan.

Out-of-home placement may not be continued past one hundred eighty days from the day the review hearing commenced. The court shall order that the child return to the home of the parent at the expiration of the placement. If continued out-of-home placement is disapproved, the court shall enter an order requiring that the child return to the home of the child's parent. [1984 c 188 § 2; 1981 c 298 § 13; 1979 c 155 § 33.]

Severability—1981 c 298: See note following RCW 13.32A.040.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Chapter 13.34

JUVENILE COURT ACT IN CASES RELATING TO DEPENDENCY OF A CHILD AND THE TERMINATION OF A PARENT AND CHILD RELATIONSHIP

Sections	
13.34.055	Custody by law enforcement officer—Release from liability.
13.34.060	Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders (as amended by 1984 c 95).
13.34.060	Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders (as amended by 1984 c 188).
13.34.130	Order of disposition for certain dependent children, alternatives—Later review hearing—Petition seeking termination of parent-child relationship.

13.34.055 Custody by law enforcement officer—Release from liability. (1) A law enforcement officer shall take into custody a child taken in violation of RCW 9A.40.060 or 9A.40.070. The law enforcement officer shall make every reasonable effort to avoid placing additional trauma on the child by obtaining such custody at times and in a manner least disruptive to the child. The law enforcement officer shall return the child to the person or agency having the right to physical custody unless the officer has reasonable grounds to believe the child should be taken into custody under RCW 13.34.050 or 26.44.050. If there is no person or agency having the right to physical custody available to take custody of the child, the officer may place the child in shelter care as provided in RCW 13.34.060.

(2) A law enforcement officer or public employee acting reasonably and in good faith shall not be held liable in any civil action for returning the child to a person having the apparent right to physical custody. [1984 c 95 § 4.]

Severability—1984 c 95: See note following RCW 9A.40.060.

13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders (as amended by 1984 c 95). (1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize routine medical and dental examination and care and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be

present, and inform them of their basic rights as provided in RCW 13.34.090.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall examine the need for shelter care. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(5) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except that such recommendation shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) The child has no parent, guardian, or legal custodian to provide supervision and care for such child;

(b) The release of such child would present a serious threat of substantial harm to such child; or

(c) The parent, guardian, or custodian to whom the child could be released is alleged to have violated RCW 9A.40.060 or 9A.40.070.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care. [1984 c 95 § 5; 1983 c 246 § 1; 1982 c 129 § 5; 1979 c 155 § 39; 1977 ex.s. c 291 § 34.]

Severability—1984 c 95: See note following RCW 9A.40.060.

13.34.060 Placing child in shelter care—Court procedures and rights of parties—Release from, when—Amendments to orders (as amended by 1984 c 188). (1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to that section. Whenever a child is taken into such custody pursuant to this section, the supervising agency may authorize routine medical and dental examination and care and all necessary emergency care. In no case may a child who is taken into custody pursuant to RCW 13.34.050 or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in RCW 13.34.090 and shall appoint counsel pursuant to RCW 13.34.090 if counsel has not been retained by the parent or guardian and if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall examine the need for shelter care. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(5) The juvenile court probation counselor shall submit a recommendation to the court as to the further need for shelter care, except

that such recommendation shall be submitted by the department of social and health services in cases where the petition alleging dependency has been filed by the department of social and health services, unless otherwise ordered by the court.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(a) Reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home;

(b) (i) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(ii) The release of such child would present a serious threat of substantial harm to such child.

If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care. [1984 c 188 § 3; 1983 c 246 § 1; 1982 c 129 § 5; 1979 c 155 § 39; 1977 ex.s. c 291 § 34.]

Reviser's note: RCW 13.34.060 was amended twice during the 1984 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.

Severability—1982 c 129: See note following RCW 9A.04.080.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

13.34.130 Order of disposition for certain dependent children, alternatives—Later review hearing—Petition seeking termination of parent-child relationship. If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to

be licensed pursuant to chapter 74.15 RCW. Such an order may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home and that:

- (i) There is no parent or guardian available to care for such child;
- (ii) The child is unwilling to reside in the custody of the child's parent, guardian, or legal custodian;
- (iii) The parent, guardian, or legal custodian is not willing to take custody of the child;
- (iv) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home; or

(v) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties.

(a) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody and what requirements the parents must meet in order to resume custody.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

- (i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered; and

(v) When return of the child can be expected.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed. [1984 c 188 § 4. Prior: 1983 c 311 § 5; 1983 c 246 § 2; 1979 c 155 § 46; 1977 ex.s. c 291 § 41.]

Legislative finding—1983 c 311: See note following RCW 13.34.030.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Chapter 13.40

JUVENILE JUSTICE ACT OF 1977

Sections

13.40.025	Juvenile disposition standards commission—Duties—Members—Chairman—Terms—Vacancies—Meetings—Compensation and expenses. (Effective July 1, 1985.)
13.40.145	Payment of fees for legal services by publicly funded counsel—Hearing—Order or decree—Entering and enforcing judgments.
13.40.260	Repealed. (Effective July 1, 1985.)
13.40.270	Repealed.

13.40.025 Juvenile disposition standards commission—Duties—Members—Chairman—Terms—Vacancies—Meetings—Compensation and expenses. (Effective July 1, 1985.) (1) There is established a juvenile disposition standards commission to propose disposition standards to the legislature in accordance with RCW 13.40.030 and perform the other responsibilities set forth in this chapter.

(2) The commission shall be composed of the secretary or the secretary's designee and the following eight members appointed by the governor, subject to confirmation by the senate: (a) A superior court judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c) a law enforcement officer; (d) an administrator of juvenile court services; (e) a public defender actively practicing in juvenile court; and (f) three other persons who have demonstrated significant interest in the adjudication and disposition of juvenile offenders. In making the appointments, the governor shall seek the recommendations of the association of superior court judges in respect to the member who is a superior court judge; of Washington prosecutors in respect to the prosecuting attorney or deputy prosecuting attorney member; of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer; of juvenile court administrators in respect to the member

who is a juvenile court administrator; and of the state bar association in respect to the public defender member.

(3) The secretary or the secretary's designee shall serve as chairman of the commission.

(4) The secretary shall serve on the commission during the secretary's tenure as secretary of the department. The term of the remaining members of the commission shall be three years. The initial terms shall be determined by lot conducted at the commission's first meeting as follows: (a) Four members shall serve a two-year term; and (b) four members shall serve a three-year term. In the event of a vacancy, the appointing authority shall designate a new member to complete the remainder of the unexpired term.

(5) Commission members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members shall be compensated in accordance with RCW 43.03.240.

(6) The commission's first meeting shall be held prior to January 1, 1982. Thereafter, the commission shall meet at least once every six months. [1984 c 287 § 11; 1981 c 299 § 3.]

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

13.40.145 Payment of fees for legal services by publicly funded counsel—Hearing—Order or decree—Entering and enforcing judgments. Upon disposition or at the time of a modification the court may order the juvenile or a parent or another person legally obligated to support the juvenile to appear, and the court may inquire into the ability of those persons to pay a reasonable sum representing in whole or in part the fees for legal services provided by publicly funded counsel.

If, after hearing, the court finds the juvenile, parent, or other legally obligated person able to pay part or all of the attorney's fees, the court may enter such order or decree as is equitable and may enforce the order or decree by execution, or in any way in which a court of equity may enforce its decrees.

In no event may the court order an amount to be paid for attorneys' fees that exceeds the average per case fee allocation for juvenile proceedings in the county where the services have been provided.

In any case in which there is no compliance with an order or decree of the court requiring a juvenile, parent, or other person legally obligated to support the juvenile to pay for legal services provided by publicly funded counsel, the court may, upon such person or persons being properly summoned or voluntarily appearing, proceed to inquire into the amount due upon the order or decree and enter judgment for that amount against the defaulting party or parties. Judgment shall be docketed in the same manner as are other judgments for the payment of money.

The county in which such judgments are entered shall be denominated the judgment creditor, and the judgments may be enforced by the prosecuting attorney of that county. Any moneys recovered thereon shall be paid

into the registry of the court and shall be disbursed to such person, persons, agency, or governmental entity as the court finds entitled thereto.

Such judgments shall remain valid and enforceable for a period of ten years subsequent to entry. [1984 c 86 § 1.]

13.40.260 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

13.40.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 13.50

KEEPING AND RELEASE OF RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES

Sections

13.50.050 Records relating to commission of juvenile offenses—Maintenance of and access thereto or the destroying thereof.

13.50.050 Records relating to commission of juvenile offenses—Maintenance of and access thereto or the destroying thereof. (1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section and RCW 13.50.010.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping

system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and

(c) No proceeding is pending seeking the formation of a diversion agreement with that person.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information

can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8).

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order.

(16) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:

(a) The person making the motion is at least twenty-three years of age;

(b) The person has not subsequently been convicted of a felony;

(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and

(d) The person has never been found guilty of a serious offense.

(18) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted if the court finds that two years have elapsed since completion of the diversion agreement.

(19) If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(23) Any juvenile justice or care agency may, subject to the limitations in subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has

attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings. [1984 c 43 § 1; 1983 c 191 § 19; 1981 c 299 § 19; 1979 c 155 § 9.]

Rules of court: Superior Court Criminal Rules (CrR), generally. Discovery: CrR 4.7.

Effective date—Severability—1979 c 155: See notes following RCW 13.04.011.

Title 14 AERONAUTICS

Chapters

- 14.08 Municipal airports—1945 act.**
- 14.16 Aircraft and airman regulations.**
- 14.20 Aircraft dealers.**

Chapter 14.08

MUNICIPAL AIRPORTS—1945 ACT

Sections

- 14.08.090 Issuance of bonds—Security.
- 14.08.120 Specific powers of municipalities operating airports.
- 14.08.160 Federal aid.
- 14.08.200 Joint operations.

14.08.090 Issuance of bonds—Security. Any bonds to be issued by any municipality pursuant to the provisions of this chapter shall be authorized and issued in the manner and within the limitation prescribed by the Constitution and laws of this state or the charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally, secured by the revenues of the airport, a mortgage on facilities, or a general tax levy as allowed by law, if the plan and system resolution are approved by the secretary of transportation or the division of municipal corporations. [1984 c 7 § 4; 1945 c 182 § 6; Rem. Supp. 1945 § 2722–35.]

Severability—1984 c 7: See note following RCW 47.01.141.

Levy of taxes: Chapter 84.52 RCW.

Public contracts and indebtedness: Title 39 RCW.

14.08.120 Specific powers of municipalities operating airports. In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

(1) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of

the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to be appointed by the governing board of the municipality by an ordinance or resolution that includes (a) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, (b) the method of appointment and filling vacancies, (c) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, (d) the powers and duties of the commission, and (e) any other matters necessary to the exercise of the powers relating to industrial and commercial development. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, and regulation are the responsibility of the municipality.

(2) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

(3) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from

year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

(4) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements, or equipment of such airports; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: *Provided*, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(5) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under subsection (1) of this section, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission. Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed seventy-five years, but any such lease of real property made for a longer period than ten years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least thirty days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they

shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

(6) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and conditions under which such properties may be used: *Provided*, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

(7) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section. [1984 c 7 § 5; 1961 c 74 § 2; 1959 c 231 § 2; 1957 c 14 § 1. Prior: 1953 c 178 § 1; 1945 c 182 § 8; Rem. Supp. 1945 § 2722-37. Formerly RCW 14.08.120 through 14.08.150 and 14.08.320.]

Severability—1984 c 7: See note following RCW 47.01.141.

Continuation of existing law—1957 c 14: "The provisions of section 1 of this act shall be construed as a restatement and continuation of existing law, and not as a new enactment. It shall not be construed as affecting any existing right acquired under its provisions, nor as affecting any proceeding instituted thereunder." [1957 c 14 § 2.] This applies to RCW 14.08.120.

Validating—1957 c 14: "The provisions of section 1 of this act are retroactive and any actions or proceedings had or taken under the provisions of RCW 14.08.120 through 14.08.150 or 14.08.320 are hereby ratified, validated and confirmed." [1957 c 14 § 3.]

Appointment of police officers by port districts operating airports: RCW 53.08.280.

14.08.160 Federal aid. (1) A municipality is authorized to accept, receive, and receipt for federal moneys and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities and sites therefor, and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon airports and other air navigation facilities.

(2) The governing body of any municipality is authorized to designate the state secretary of transportation as its agent to accept, receive, and receipt for federal

moneys on its behalf for airport purposes and to contract for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports or other air navigation facilities, and may enter into an agreement with the secretary of transportation prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and applicable laws of this state. Such moneys as are paid over by the United States government shall be paid over to the municipality under such terms and conditions as may be imposed by the United States government in making the grant.

(3) All contracts for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports or other air navigation facilities, made by the municipality itself or through the agency of the state secretary of transportation, shall be made pursuant to the laws of this state governing the making of like contracts, except that where the acquisition, construction, improvement, enlargement, maintenance, equipment, or operation is financed wholly or partly with federal moneys, the municipality or the secretary of transportation, as its agent, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary. [1984 c 7 § 6; 1945 c 182 § 9; Rem. Supp. 1945 § 2722-38. Formerly RCW 14.08.160, 14.08.170, and 14.08.180.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.08.200 Joint operations. (1) All powers, rights, and authority granted to any municipality in this chapter may be exercised and enjoyed by two or more municipalities, or by this state and one or more municipalities therein, acting jointly, either within or outside the territorial limits of either or any of the municipalities and within or outside this state, or by this state or any municipality therein acting jointly with any other state or municipality therein, either within or outside this state if the laws of the other state permit such joint action.

(2) For the purposes of this section only, unless another intention clearly appears or the context requires otherwise, this state is included in the term "municipality," and all the powers conferred upon municipalities in this chapter, if not otherwise conferred by law, are conferred upon this state when acting jointly with any municipality or municipalities. Where reference is made to the "governing body" of a municipality, that term means, as to the state, its secretary of transportation.

(3) Any two or more municipalities may enter into agreements with each other, duly authorized by ordinances or resolution, as may be appropriate, for joint action under this section. Concurrent action by the governing bodies of the municipalities involved constitutes joint action.

(4) Each such agreement shall specify its terms; the proportionate interest which each municipality shall have in the property, facilities, and privileges involved,

and the proportion of preliminary costs, cost of acquisition, establishment, construction, enlargement, improvement, and equipment, and of expenses of maintenance, operation, and regulation to be borne by each, and make such other provisions as may be necessary to carry out the provisions of this section. It shall provide for amendments thereof and for conditions and methods of termination; for the disposition of all or any part of the property, facilities, and privileges jointly owned if the property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this section or if the agreement is terminated, and for the distribution of the proceeds received upon any such disposition, and of any funds or other property jointly owned and undisposed of, and the assumption or payment of any indebtedness arising from the joint venture which remains unpaid, upon any such disposition or upon a termination of the agreement.

(5) Municipalities acting jointly as authorized in this section shall create a board from the inhabitants of the municipalities for the purpose of acquiring property for, establishing, constructing, enlarging, improving, maintaining, equipping, operating, and regulating the airports and other air navigation facilities and airport protection privileges to be jointly acquired, controlled, and operated. The board shall consist of members to be appointed by the governing body of each municipality involved, the number to be appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms as to compensation, if any, as may be provided for in the agreement.

(6) Each such board shall organize, select officers for terms to be fixed by the agreement, and adopt and from time to time amend rules of procedure.

(7) Such board may exercise, on behalf of the municipalities acting jointly by which it is appointed, all the powers of each of the municipalities granted by this chapter, except as provided in this section. Real property, airports, restricted landing areas, air protection privileges, or personal property costing in excess of a sum to be fixed by the joint agreement, may be acquired, and condemnation proceedings may be instituted, only by approval of the governing bodies of each of the municipalities involved. Upon the approval of the governing body, or if no approval is necessary then upon the board's own determination, such property may be acquired by private negotiation under such terms and conditions as seem just and proper to the board. The total amount of expenditures to be made by the board for any purpose in any calendar year shall be determined by the municipalities involved by the approval by each on or before the preceding December 1st, of a budget for the ensuing calendar year, which budget may be amended or supplemented by joint resolution of the municipalities involved during the calendar year for which the original budget was approved. Rules and regulations provided for by RCW 14.08.120(2) become effective only upon approval of each of the appointing governing bodies. No real property and no airport, other navigation facility, or air protection privilege, owned jointly, may be disposed

of by the board by sale except by authority of all the appointing governing bodies, but the board may lease space, land area, or improvements and grant concessions on airports for aeronautical purposes, or other purposes which will not interfere with the aeronautical purposes of such airport, air navigation facility, or air protection privilege by private negotiation under such terms and conditions as seem just and proper to the board, subject to the provisions of RCW 14.08.120(4). Subject to the provisions of the agreement for the joint venture, and when it appears to the board to be in the best interests of the municipalities involved, the board may sell any personal property by private negotiations under such terms and conditions as seem just and proper to the board.

(8) Each municipality, acting jointly with another pursuant to the provisions of this section, is authorized and empowered to enact, concurrently with the other municipalities involved, such ordinances as are provided for by RCW 14.08.120(2), and to fix by such ordinances penalties for the violation thereof. When so adopted, the ordinances have the same force and effect within the municipalities and on any property jointly controlled by them or adjacent thereto, whether within or outside the territorial limits of either or any of them, as ordinances of each municipality involved, and may be enforced in any one of the municipalities in the same manner as are its individual ordinances. The consent of the state secretary of transportation to any such ordinance, where the state is a party to the joint venture, is equivalent to the enactment of the ordinance by a municipality. The publication provided for in RCW 14.08.120(2) shall be made in each municipality involved in the manner provided by law or charter for publication of its individual ordinances.

(9) Condemnation proceedings shall be instituted, in the names of the municipalities jointly, and the property acquired shall be held by the municipalities as tenants in common. The provisions of RCW 14.08.030(2) apply to such proceedings.

(10) For the purpose of providing funds for necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which each of the municipalities involved shall deposit its proportionate share as provided by the joint agreement. Such funds shall be provided for by bond issues, tax levies, and appropriations made by each municipality in the same manner as though it were acting separately under the authority of this chapter. The revenues obtained from the ownership, control, and operation of the airports and other air navigation facilities jointly controlled shall be paid into the fund, to be expended as provided in this chapter. Revenues in excess of cost of maintenance and operating expenses of the joint properties shall be divided or allowed to accumulate for future anticipated expenditures as may be provided in the original agreement, or amendments thereto, for the joint venture. The action of municipalities involved in heretofore permitting such revenues to so accumulate is declared to be legal and valid.

(11) All disbursements from the joint fund shall be made by order of the board in accordance with such

rules and regulations and for such purposes as the appointing governing bodies, acting jointly, shall prescribe.

(12) Specific performance of the provisions of any joint agreement entered into as provided for in this section may be enforced as against any party thereto by the other party or parties thereto. [1984 c 7 § 7; 1967 c 182 § 1; 1949 c 120 § 1; 1945 c 182 § 11; Rem. Supp. 1949 § 2722-40. Formerly RCW 14.08.200 through 14.08.280.]

Severability—1984 c 7: See note following RCW 47.01.141.

Joint operations by municipal corporations or political subdivisions, deposit and control of funds: RCW 43.09.285.

Chapter 14.16

AIRCRAFT AND AIRMAN REGULATIONS

Sections

14.16.010 Definitions.

14.16.010 Definitions. In this chapter "aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way and any individual who is in charge of the inspection, overhauling, or repairing of aircraft. "Operating aircraft" means performing the services of aircraft pilot. "Person" means any individual, proprietorship, partnership, corporation, or trust. "Downed aircraft rescue transmitter" means a transmitter of a type approved by the state department of transportation or the federal aviation administration with sufficient transmission power and reliability that it will be automatically activated upon the crash of an aircraft so as to transmit a signal on a preset frequency so that it will be effective to assist in the location of the downed aircraft. "Air school" means air school as defined in RCW 47.68.020(11). [1984 c 7 § 8; 1969 ex.s. c 205 § 1; 1929 c 157 § 1; RRS § 2722-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 14.20

AIRCRAFT DEALERS

Sections

14.20.010	Definitions.
14.20.020	Unlawful to act as aircraft dealer without current license—Application.
14.20.030	Application for license—Contents.
14.20.040	Certificates.
14.20.050	License and certificate fees.
14.20.060	Payment of fees—Fund—Possession and display of licenses and certificates.
14.20.070	Surety bonds.
14.20.090	Denial, suspension, revocation of license—Grounds.
14.20.100	Appeal from secretary's order.

14.20.010 Definitions. When used in this chapter and RCW 47.68.250 and 82.48.100:

(1) "Person" includes a firm, partnership, or corporation;

(2) "Dealer" means a person engaged in the business of selling, exchanging, or acting as a broker of aircraft;

(3) "Aircraft" means any weight-carrying device or structure for navigation of the air, designed to be supported by the air, but which is heavier than air and is mechanically driven;

(4) "Secretary" means the secretary of the state department of transportation. [1984 c 7 § 9; 1955 c 150 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.020 Unlawful to act as aircraft dealer without current license—Application. (1) It is unlawful for a person to act as an aircraft dealer without a currently valid aircraft dealer's license issued under this chapter.

(2) Any person applying for an aircraft dealer's license shall do so at the office of the secretary on a form provided for that purpose by the secretary. [1984 c 7 § 10; 1983 c 135 § 1; 1955 c 150 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.030 Application for license—Contents. Applications for an aircraft dealer's license shall contain:

(1) The name under which the dealer's business is conducted and the address of the dealer's established place of business;

(2) The residence address of each owner, director, or principal officer of the aircraft dealer, and, if a foreign corporation, the state of incorporation and names of its resident officers or managers;

(3) The make or makes of aircraft for which franchised, if any;

(4) Whether or not used aircraft are dealt in;

(5) A certificate that the applicant is a dealer having an established place of business at the address shown on the application, which place of business is open during regular business hours to inspection by the secretary or his representatives; and

(6) Whether or not the applicant has ever been denied an aircraft dealer's license or has had one which has been denied, suspended, or revoked. [1984 c 7 § 11; 1955 c 150 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.040 Certificates. During such time as aircraft are held by a dealer for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of the dealer's business, an aircraft dealer's certificate may be used on the aircraft in lieu of a registration certificate or fee and in lieu of payment of excise tax. The secretary shall issue one aircraft dealer's certificate with each aircraft dealer's license. Additional aircraft dealer's certificates shall be issued to an aircraft dealer upon request and the payment of the fee provided in RCW 14.20.050. Nothing contained in this section, however, may be construed to prevent transferability among dealer aircraft of

any aircraft dealer's certificate, and the certificate need be displayed on dealer aircraft only while in actual use or flight. Every aircraft dealer's certificate issued expires on December 31st, and may be renewed upon renewal of an aircraft dealer's license. [1984 c 7 § 12; 1955 c 150 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.050 License and certificate fees. The fee for original aircraft dealer's license for each calendar year or fraction thereof is twenty-five dollars which includes one aircraft dealer's certificate and which may be renewed annually for a fee of ten dollars. Additional aircraft dealer certificates may be obtained for two dollars each per year. If any dealer fails or neglects to apply for renewal of his license prior to February 1st in each year, his license shall be declared canceled by the secretary, in which case any such dealer desiring a license shall apply for an original license and pay the fee required for an original license. [1984 c 7 § 13; 1955 c 150 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.060 Payment of fees—Fund—Possession and display of licenses and certificates. The fees set forth in RCW 14.20.050 shall be paid to the secretary. The fee for any calendar year may be paid on and after the first day of December of the preceding year. The secretary shall give appropriate receipts therefor. The fees collected under this chapter shall be credited to the general fund. The secretary may prescribe requirements for the possession and exhibition of aircraft dealer's licenses and aircraft dealer's certificates. [1984 c 7 § 14; 1955 c 150 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.070 Surety bonds. Before issuing an aircraft dealer license, the secretary shall require the applicant to file with the secretary a surety bond in the amount of twenty-five thousand dollars running to the state, and executed by a surety company authorized to do business in the state. The bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter, RCW 47.68.250, and 82.48.100. Any person who has suffered any loss or damage by reason of any act by a dealer which constitutes ground for refusal, suspension, or revocation of license under RCW 14.20.090 has a right of action against the aircraft dealer and the surety upon the bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. [1984 c 7 § 15; 1983 c 135 § 2; 1983 c 3 § 17; 1955 c 150 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

Surety insurance: Chapter 48.28 RCW.

14.20.090 Denial, suspension, revocation of license—Grounds. The secretary shall refuse to issue an aircraft dealer's license or shall suspend or revoke an

aircraft dealer's license whenever he has reasonable grounds to believe that the dealer has:

(1) Forged or altered any federal certificate, permit, rating, or license relating to ownership and airworthiness of an aircraft;

(2) Sold or disposed of an aircraft which he knows or has reason to know has been stolen or appropriated without the consent of the owner;

(3) Wilfully misrepresented any material fact in the application for an aircraft dealer's license, aircraft dealer's certificate, or registration certificate;

(4) Wilfully withheld or caused to be withheld from a purchaser of an aircraft any document referred to in subsection (1) of this section if applicable, or an affidavit to the effect that there are no liens, mortgages, or encumbrances of any type on the aircraft other than noted thereon, if the document or affidavit has been requested by the purchaser;

(5) Suffered or permitted the cancellation of his bond or the exhaustion of the penalty thereof;

(6) Used an aircraft dealer's certificate for any purpose other than those permitted by this chapter or RCW 47.68.250 and 82.48.100;

(7) Been adjudged guilty of a crime that directly relates to the business of an aircraft dealer and the time elapsed since the conviction is less than ten years, or had a judgment entered against the dealer within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purpose of this section, the term "adjudged guilty" means, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of the sentence is deferred or the penalty is suspended. [1984 c 7 § 16; 1983 c 135 § 3; 1983 c 3 § 18; 1955 c 150 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

14.20.100 Appeal from secretary's order. If the secretary issues an order that any person is not entitled to an aircraft dealer's license or that an existing license should be suspended or revoked, he shall forthwith notify the applicant or dealer in writing. The applicant has thirty days from the date of the secretary's order to appeal therefrom to the superior court of Thurston county, which he may do by filing a notice of the appeal with the clerk of the superior court and at the same time filing a copy of the notice with the secretary. [1984 c 7 § 17; 1955 c 150 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 15

AGRICULTURE AND MARKETING

Chapters

- 15.24 Apple advertising commission.
- 15.26 Tree fruit research act.
- 15.28 Soft tree fruits.

- 15.36 Fluid milk.
- 15.44 Dairy products commission.
- 15.65 Washington state agricultural enabling act of 1961.
- 15.66 Washington agricultural enabling act of 1955.
- 15.76 Agricultural fairs, youth shows, exhibitions.

Chapter 15.24

APPLE ADVERTISING COMMISSION

Sections

15.24.050 Vacancies—Quorum—Compensation—Travel expenses. (Effective July 1, 1985.)

15.24.050 Vacancies—Quorum—Compensation—Travel expenses. (Effective July 1, 1985.) In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position until the next annual meeting shall be filled by vote of the remaining members of the commission. At such annual meeting a commissioner shall be elected to fill the balance of the unexpired term.

A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when out of state on official commission business. [1984 c 287 § 12; 1975-'76 2nd ex.s. c 34 § 12; 1967 c 240 § 26; 1961 c 11 § 15.24.050. Prior: 1949 c 191 § 1, part; 1937 c 195 § 3, part; Rem. Supp. 1949 § 2874-3, part.]

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.

Chapter 15.26

TREE FRUIT RESEARCH ACT

Sections

15.26.100 Compensation—Travel expenses. (Effective July 1, 1985.)

15.26.100 Compensation—Travel expenses. (Effective July 1, 1985.) Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when out of state on official commission business. [1984 c 287 § 13; 1975-'76 2nd ex.s. c 34 § 13; 1969 c 129 § 10.]

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.

Chapter 15.28
SOFT TREE FRUITS

Sections

15.28.090 Compensation of members—Travel expenses. (Effective July 1, 1985.)

15.28.090 Compensation of members—Travel expenses. (Effective July 1, 1985.) Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when out of state on official commission business. [1984 c 287 § 14; 1975-'76 2nd ex.s. c 34 § 14; 1967 c 191 § 5; 1961 c 11 § 15-.28.090. Prior: 1947 c 73 § 10; Rem. Supp. 1947 § 2909-19.]

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.

Effective date—1967 c 191: See note following RCW 15.28.020.

Chapter 15.36
FLUID MILK

Sections

15.36.060 Definitions—"Person," "director," "department," "health officer," "and/or."
15.36.115 Test for antibiotic or pesticide residue—Penalty—Appeal—Disposition of penalty—Investigation of cause of residue—Prohibition on sale.
15.36.120 Grading of milk and milk products—In general.
15.36.140 Grade A raw milk—Standards in general.
15.36.260 Grade A raw milk—Cooling.

15.36.060 Definitions—"Person," "director," "department," "health officer," "and/or." The word "person" means any individual, partnership, firm, corporation, company, trustee, or association.

"Director" means the director of agriculture of the state of Washington or his duly authorized representative.

"Department" means the state department of agriculture.

"Health officer" means the county or city health officer as defined in Title 70 RCW, or his authorized representatives.

Where the term "and/or" is used "and" shall apply where possible, otherwise "or" shall apply. [1984 c 226 § 2; 1961 c 11 § 15.36.060. Prior: 1955 c 238 § 7; prior: 1949 c 168 § 1, part; Rem. Supp. 1949 § 6266-30, part.]

15.36.115 Test for antibiotic or pesticide residue—Penalty—Appeal—Disposition of penalty—Investigation of cause of residue—Prohibition on sale.

(1) If the results of an antibiotic or pesticide residue test are above the actionable level as determined by procedures set forth in the current edition of "Standard

Methods for the Examination of Dairy Products," a producer holding a grade A permit is subject to a civil penalty. The penalty shall be in an amount equal to one-half the value of the sum of the volumes of milk equivalent produced under the permit on the day prior to and the day of the adulteration. The value of the milk shall be computed by the weighted average price for the federal market order under which the milk is delivered.

(2) The penalty is imposed by the department giving a written notice which is either personally served upon or transmitted by certified mail, return receipt requested, to the person incurring the penalty. The notice of the civil penalty shall be a final order of the department unless, within fifteen days after the notice is received, the person incurring the penalty appeals the penalty by filing a notice of appeal with the department. If a notice of appeal is filed in a timely manner, a contested case hearing shall be conducted on behalf of the department by the office of administrative hearings in accordance with chapters 34.04 and 34.12 RCW and, to the extent they are not inconsistent with this subsection, the provisions of RCW 15.36.580. At the conclusion of the hearing, the department shall determine whether the penalty should be affirmed, reduced, or not imposed and shall issue a final order setting forth the civil penalty assessed, if any. The order may be appealed to superior court in accordance with chapter 34.04 RCW. Tests performed for antibiotic or pesticide residues by a state or certified industry laboratory of a milk sample drawn by a department official or a licensed dairy technician shall be admitted as prima facie evidence of the presence or absence of an antibiotic or pesticide residue.

(3) Any penalty imposed under this section is due and payable upon the issuance of the final order by the department. The penalty shall be deducted by the violator's marketing organization from the violator's final payment for the month following the issuance of the final order. The department shall promptly notify the violator's marketing organization of any penalties contained in the final order.

(4) All penalties received or recovered from violations of this section shall be remitted monthly by the violator's marketing organization to the Washington state dairy products commission and deposited in a revolving fund to be used solely for the purposes of education and research. No appropriation is required for disbursements from this fund.

(5) In case of a violation of the antibiotic or pesticide residue test requirements, an investigation shall be made to determine the cause of the residue which shall be corrected. Additional samples shall be taken as soon as possible and tested as soon as feasible for antibiotic or pesticide residue by the department or a certified laboratory. After the notice has been received by the producer and the results of a test of such an additional sample indicate that residues are above the actionable level or levels referred to in subsection (1) of this section, the producer's milk may not be sold until a sample is shown to be below the actionable levels established for the residues. [1984 c 226 § 1.]

15.36.120 Grading of milk and milk products—In general. Grades of milk and milk products as defined in this chapter shall be based on the respectively applicable standards contained in RCW 15.36.120 through 15.36.460, with the grading of milk products being identical with the grading of milk, except that bacterial standards are omitted in the case of cultured milk products. Vitamin D milk shall be only of grade A, certified pasteurized, or certified raw quality. The grade of a milk product shall be that of the lowest grade milk or milk product used in its preparation. [1984 c 226 § 3; 1981 c 297 § 2; 1961 c 11 § 15.36.120. Prior: 1955 c 238 § 12; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266–36, part.]

Severability—1981 c 297: See note following RCW 15.36.110.

15.36.140 Grade A raw milk—Standards in general. Grade A raw milk is raw milk produced upon dairy farms conforming with all of the items of sanitation contained in RCW 15.36.150 through 15.36.280, and the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter.

Grade A raw milk for pasteurization is raw milk produced upon dairy farms conforming with all of the same items of sanitation except RCW 15.36.265 (bottling and capping), 15.36.270 (personnel health), and portions of other items as indicated, and the bacterial plate count, as delivered from the farm, does not exceed eighty thousand per milliliter as determined in accordance with RCW 15.36.110. [1984 c 226 § 4; 1981 c 297 § 3; 1961 c 11 § 15.36.140. Prior: 1955 c 238 § 14; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266–36, part.]

Severability—1981 c 297: See note following RCW 15.36.110.

15.36.260 Grade A raw milk—Cooling. Milk and milk products for consumption in the raw state or for pasteurization shall be cooled within two hours of completion of milking to forty degrees Fahrenheit or less and maintained at that temperature until picked up, in accordance with RCW 15.36.110, so long as the blend temperature after the first and following milkings does not exceed fifty degrees Fahrenheit. [1984 c 226 § 5; 1961 c 11 § 15.36.260. Prior: 1955 c 238 § 37; prior: 1949 c 168 § 7, part; Rem. Supp. 1949 § 6266–36, part.]

Chapter 15.44

DAIRY PRODUCTS COMMISSION

Sections

15.44.038 Quorum—Compensation—Travel expenses. (Effective July 1, 1985.)

15.44.038 Quorum—Compensation—Travel expenses. (Effective July 1, 1985.) A majority of the commission members shall constitute a quorum for the transaction of all business and the performance of all duties of the commission. Each member shall be compensated in accordance with RCW 43.03.230 and shall

be reimbursed for travel expenses at the rates allowed by RCW 43.03.050 and 43.03.060. [1984 c 287 § 15; 1975–'76 2nd ex.s. c 34 § 15; 1975 1st ex.s. c 7 § 12; 1961 c 11 § 15.44.038. Prior: 1959 c 163 § 8.]

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.

Chapter 15.65

WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961

Sections

15.65.270 Vacancies, quorum, compensation, travel expenses of commodity board members. (Effective July 1, 1985.)

15.65.270 Vacancies, quorum, compensation, travel expenses of commodity board members. (Effective July 1, 1985.) In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term. A majority of the voting members of the board shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board. Each member of the board shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for travel expenses at the rates allowed state employees in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 16; 1975–'76 2nd ex.s. c 34 § 19; 1961 c 256 § 27.]

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.

Chapter 15.66

WASHINGTON AGRICULTURAL ENABLING ACT OF 1955

Sections

15.66.130 Commodity commission—Meetings—Quorum—Compensation. (Effective July 1, 1985.)

15.66.130 Commodity commission—Meetings—Quorum—Compensation. (Effective July 1, 1985.) Each commodity commission shall hold such regular meetings as the marketing order may prescribe or that the commission by resolution may prescribe, together with such special meetings that may be called in accordance with provisions of its resolutions upon reasonable notice to all members thereof. A majority of the members shall constitute a quorum for the transaction of all business of the commission. In the event of a vacancy in an elected or appointed position on the commission, the remaining elected members of the commission shall select a qualified person to fill the unexpired term.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 17; 1975–'76 2nd

ex.s. c 34 § 20; 1975 1st ex.s. c 7 § 10; 1972 ex.s. c 112 § 3; 1961 c 11 § 15.66.130. Prior: 1955 c 191 § 13.]

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.

Chapter 15.76

AGRICULTURAL FAIRS, YOUTH SHOWS, EXHIBITIONS

Sections

15.76.170 Fairs commission—Creation, terms, compensation, powers and duties. (Effective July 1, 1985.)

15.76.170 Fairs commission—Creation, terms, compensation, powers and duties. (Effective July 1, 1985.) There is hereby created a fairs commission to consist of the director of agriculture as ex officio member and chairman, and seven members appointed by the director to be persons who are interested in fair activities; at least three of whom shall be from the east side of the Cascades and three from the west side of the Cascades and one member at large. The first appointment shall be: Three for a one year term, two for a two year term, and two for a three year term, and thereafter the appointments shall be for three year terms.

Appointed members of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses, in accordance with RCW 43.03.050 and 43.03.060 payable on proper vouchers submitted to and approved by the director, and payable from that portion of the state fair fund set aside for administrative costs under this chapter. The commission shall meet at the call of the chairman, but at least annually. It shall be the duty of the commission to act as an advisory committee to the director, to assist in the preparation of the merit rating used in determining allocations to be made to fairs, and to perform such other duties as may be required by the director from time to time. [1984 c 287 § 18; 1975-'76 2nd ex.s. c 34 § 21; 1975 1st ex.s. c 7 § 11; 1961 c 61 § 8.]

Reviser's note—Sunset Act application: The fairs commission is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.273. RCW 15.76.170 is scheduled for future repeal under RCW 43.131.274.

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.

Title 16

ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapters

16.67 Washington state beef commission act.

[1984 RCW Supp—page 150]

Chapter 16.67

WASHINGTON STATE BEEF COMMISSION ACT

Sections

16.67.070 Vacancies—Compensation and travel expenses. (Effective July 1, 1985.)

16.67.070 Vacancies—Compensation and travel expenses. (Effective July 1, 1985.) In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of such position shall be filled by the governor forthwith.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 19; 1975-'76 2nd ex.s. c 34 § 22; 1969 c 133 § 6.]

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.

Title 17

WEEDS, RODENTS AND PESTS

Chapters

17.04 Weed districts.

17.28 Mosquito control districts.

Chapter 17.04

WEED DISTRICTS

Sections

17.04.180 County and state lands.

17.04.180 County and state lands. Whenever any lands belonging to the county are included within a weed district, the county legislative authority shall determine the amount of the taxes for which the lands would be liable if they were in private ownership, and the county legislative authority shall appropriate from the current expense fund of the county sufficient money to pay such amounts. Whenever any state lands are within any weed district, the county treasurer shall certify annually and forward to the commissioner of public lands, or, if the lands are occupied by or used in connection with any state institution, to the secretary of social and health services, or if the land is under use as state highway right of way, to the secretary of transportation, a statement showing the amount of the tax to which the lands would be liable if they were in private ownership, separately describing each lot or parcel. The commissioner of public lands or the secretary of social and health services or the secretary of transportation, as the case may be, shall cause a proper record to be made in their respective offices of the charges against the lands and shall certify the record to the state auditor thirty days before the convening of a session of the legislature in an odd-

numbered year, and the state auditor shall at the next session of the legislature convened in an odd-numbered year, certify to the legislature the amount of the charges against the lands. The legislature shall provide for payment of the charges to the weed district by an appropriation from the general fund of the state treasury or in the case of state highway right of way, the motor vehicle fund of the state treasury, with interest at six percent per annum on the amount of the charges, and without penalties. [1984 c 7 § 18; 1971 ex.s. c 119 § 1; 1961 c 250 § 4; 1929 c 125 § 8; RRS § 2777. Prior: 1921 c 150 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.
Weed extermination subdistricts, state lands within: RCW 17.08.150.

Chapter 17.28

MOSQUITO CONTROL DISTRICTS

Sections

17.28.260 General obligation bonds—Excess property tax levies.

17.28.260 General obligation bonds—Excess property tax levies. A mosquito control district shall have the power to issue general obligation bonds and to pledge the full faith and credit of the district to the payment thereof, for authorized capital purposes of the mosquito control district, and to provide for the retirement thereof by excess property tax levies whenever a proposition authorizing both the issuance of such bonds and the imposition of such excess levies has been approved by the voters of the district, at an election held pursuant to RCW 39.36.050, by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of votes cast within the area of said mosquito control district at the last preceding county or state general election. Mosquito control districts may become indebted for capital purposes up to an amount equal to one and one-fourth percent of the value of the taxable property in the district, as the term "value of the taxable property" is defined in RCW 39.36.015.

Such bonds shall never be issued to run for a longer period than ten years from the date of issue and shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 5; 1983 c 167 § 18; 1973 1st ex.s. c 195 § 4; 1970 ex.s. c 56 § 5; 1969 ex.s. c 232 § 65; 1957 c 153 § 26.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Title 18 BUSINESSES AND PROFESSIONS

Chapters

- 18.04 Accountancy.
- 18.08 Architects.
- 18.11 Auctioneers.
- 18.16 Cosmetologists, barbers, and manicurists.
- 18.22 Podiatry.
- 18.25 Chiropractic.
- 18.26 Chiropractic disciplinary board.
- 18.29 Dental hygienist.
- 18.32 Dentistry.
- 18.34 Dispensing opticians.
- 18.35 Hearing aids.
- 18.36 Drugless healing.
- 18.39 Embalmers—Funeral directors.
- 18.43 Engineers and land surveyors.
- 18.44 Escrow agent registration act.
- 18.50 Midwifery.
- 18.51 Nursing homes.
- 18.52 Nursing home administrators.
- 18.54 Optometry board.
- 18.55 Ocularists.
- 18.57 Osteopathy—Osteopathic medicine and surgery.
- 18.59 Occupational therapy.
- 18.64 Pharmacists.
- 18.71 Physicians.
- 18.72 Medical disciplinary board.
- 18.73 Emergency medical care and transportation services.
- 18.74 Physical therapy.
- 18.78 Practical nurses.
- 18.81 Prophylactic vendors.
- 18.83 Psychologists.
- 18.85 Real estate brokers and salesmen.
- 18.88 Registered nurses.
- 18.92 Veterinary medicine, surgery and dentistry.
- 18.96 Landscape architects.
- 18.100 Professional service corporations.
- 18.108 Massage operators and businesses.
- 18.120 Regulation of health professions.
- 18.130 Uniform disciplinary act—Health and health-related professions.
- 18.135 Health care assistants.

Chapter 18.04

ACCOUNTANCY

Sections

18.04.080 Compensation and travel expenses of members. (Effective July 1, 1985.)

18.04.080 Compensation and travel expenses of members. (Effective July 1, 1985.) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in the discharge of such duties in accordance

with RCW 43.03.050 and 43.03.060. [1984 c 287 § 20; 1983 c 234 § 22; 1975-'76 2nd ex.s. c 34 § 25; 1949 c 226 § 7; Rem. Supp. 1949 § 8269-14.]

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.

Chapter 18.08 ARCHITECTS

Sections

18.08.120 Board of registration—Appointment, qualifications, terms, vacancies—Compensation and travel expenses. (Effective July 1, 1985.)

18.08.120 Board of registration—Appointment, qualifications, terms, vacancies—Compensation and travel expenses. (Effective July 1, 1985.) There is hereby created a state board of registration for architects, to consist of five members who shall be appointed by the governor, each of whom shall have been a resident of this state for at least eight years and shall have at least eight years' experience in the practice of architecture as a licensed or registered architect in responsible charge of architectural work or responsible charge of architectural teaching immediately preceding appointment.

The members of the first board shall serve for the following terms:

One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of five years or until his successor has been appointed and qualified.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 21; 1975-'76 2nd ex.s. c 34 § 27; 1959 c 323 § 3.]

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.

Chapter 18.11 AUCTIONEERS

Sections

18.11.120 Surety bond or trust account required.
18.11.210 Newspaper advertisements—Auctioneer's name and license number required.

Limitations on power of cities and towns to regulate auctioneers: RCW 35.21.690.

Limitations on power of counties to regulate auctioneers: RCW 36.71.070.

18.11.120 Surety bond or trust account required. (1) An auctioneer's license shall not be issued to any person, partnership, association, or corporation until the applicant has filed with the department an approved bond or has established a trust account in lieu of the bond, as required under this section.

(2) Each applicant for an auctioneer's license shall obtain a surety bond issued by a surety company authorized to do business in Washington or establish and maintain a trust account with a qualified public depository located in the state of Washington. Each trust account shall be managed by a trustee approved by the director. The bond or the trust account shall be in an amount not less than five thousand dollars and not more than twenty-five thousand dollars. The amount of the bond or trust account required shall be based upon the value of the goods and real estate sold at auctions conducted by the auctioneer in the previous calendar year or, for a new auctioneer, the estimated value of the goods and real estate to be sold at auctions conducted by the auctioneer during the next calendar year. The director shall establish by rule the procedures to be used in determining the amount of the bond or trust account required for licensure or license renewal. Each such amount shall be expressed as a whole number multiple of one thousand dollars. The director may, by rule or order, establish procedures for the initiation, operation, forfeiture, or termination of any bond or trust account required under this section, including rules to ensure that the bond or trust account remains in effect for one year after expiration, revocation, or suspension of the auctioneer's license.

All bonds shall be subject to the condition that the licensee comply with this chapter and the law of the state. Each bond, or proof of the establishment of the required trust account, shall be filed with and retained by the department.

(3) The bond or trust account shall be in the name of the state of Washington. It shall be for the benefit of the state and any person injured by the auctioneer's violation of this chapter or by the auctioneer's breach of any obligation arising from auction business in this state. The state may bring an action against the bond or trust account to recover penalties. The state or an injured person may bring an action against the bond or trust account for damages to the injured person. The liability of the surety or trustee shall be only for actual damages and shall not exceed the amount of the bond or trust account. [1984 c 189 § 3; 1982 c 205 § 10.]

18.11.210 Newspaper advertisements—Auctioneer's name and license number required. All newspaper advertising regarding auctions that is purchased by an auctioneer licensed under this chapter shall include the auctioneer's name and license number. [1984 c 189 § 1.]

Chapter 18.16 COSMETOLOGISTS, BARBERS, AND MANICURISTS

Sections	
18.16.010	Intent.
18.16.020	Definitions.
18.16.030	Director—Powers and duties.
18.16.040	Staff.
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18.16.060	Licenses required—Penalty.
18.16.070	Licensing—Persons to whom chapter inapplicable.
18.16.080	Licensing—Other persons to whom chapter inapplicable.
18.16.090	Examinations.
18.16.100	Issuance of licenses—Requirements.
18.16.110	Issuance of licenses—Renewals.
18.16.120	Issuance of licenses—Persons and schools licensed under prior laws.
18.16.130	Issuance of licenses—Persons licensed in other jurisdictions.
18.16.140	School licenses—Application—Surety bond—Issuance.
18.16.150	Schools—Compliance with chapter.
18.16.160	Schools—Claims against—Procedure.
18.16.200	Disciplinary action—Grounds.
18.16.210	Violations—Penalties.
18.16.220	Appeal—Procedure.
18.16.900	Short title—1984 c 208.
18.16.905	Severability—1984 c 208.
18.16.907	Effective date—1984 c 208.

18.16.010 Intent. The legislature recognizes that the practice of cosmetology involves the use of tools and chemicals which may be dangerous when mixed or applied improperly, and therefore finds it necessary in the interest of the public health, safety, and welfare to regulate the practice of cosmetology in this state. [1984 c 208 § 1.]

18.16.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Board" means the cosmetology, barbering, and manicuring advisory board.

(2) "Director" means the director of the department of licensing.

(3) "The practice of cosmetology" means the practice of manicuring, the practice of barbering, and the permanent waving, chemical relaxing or straightening, bleaching, or coloring of the hair of the face, neck, and scalp.

(4) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology and who has completed sixteen hundred hours of instruction at a school licensed under this chapter.

(5) "The practice of barbering" means the cutting, trimming, arranging, dressing, curling, waving and shampooing hair of the face, neck and scalp.

(6) "Barber" means a person licensed under this chapter to engage in the practice of barbering and who has completed eight hundred hours of instruction at a school licensed under this chapter.

(7) "Practice of manicuring" means the application and removal of artificial nails, skin care involving hot compresses, massage, or the use of electrical appliances or chemical compounds formulated for professional application only, and the temporary removal of superfluous hair by means of lotions, creams or mechanical or electrical apparatus or appliances on another person.

(8) "Manicurist" means a person who has successfully completed five hundred hours of instruction at a school licensed under this chapter and who is licensed pursuant to this chapter.

(9) "School" means any establishment offering instruction in the practice of cosmetology, barbering, or manicuring to students and licensed under this chapter.

(10) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives any phase of cosmetology, barbering, or manicuring instruction with or without tuition, fee, or cost, and who does not receive any wage or commission.

(11) "Cosmetology instructor" means a person who gives instruction in the practice of cosmetology, barbering and/or manicuring in a school and who has the same qualifications as a cosmetologist and who has completed at least five hundred hours of instruction in cosmetology teaching techniques and lesson planning in a school and has passed an examination prepared or selected by the board and administered by the director. A person who applies for a license under this section and who can show equivalent credentials to the five hundred hour curriculum is exempt from the five hundred hour requirement. An applicant who holds a degree in education from an accredited postsecondary institution shall upon application be licensed as an instructor if the applicant meets the requirements for licensure as a cosmetologist.

(12) "Special student" is a person who has academically completed the eleventh grade of high school, who in cooperation with any senior high, vocational technical institute, community college, or prep school, attends a cosmetology school and participates in its student course of instruction and has the same rights and duties as a student as defined in this chapter. The school shall have relatively corresponding rights and responsibilities, and every such special student shall receive credit for all hours of instruction received in the school of cosmetology upon graduation from high school. Hours shall be credited to a special student if the student graduates from an accredited high school or receives a certificate of educational competence before applying to take the cosmetologist, barber, or manicurist license examination. [1984 c 208 § 2.]

18.16.030 Director—Powers and duties. In addition to any other duties imposed by law, the director shall have the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To investigate alleged violations of this chapter and consumer complaints involving the practice of cosmetology, barbering, or manicuring;

(4) To conduct all disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it;

(5) To administer licensing examinations;

(6) To establish minimum safety and sanitation standards for schools;

(7) To establish minimum instruction guidelines for the training of students;

(8) Shall keep all student training records submitted by the school on file for at least five years or until the student is licensed;

(9) To set license expiration dates and renewal periods for all licenses under this chapter. [1984 c 208 § 7.]

18.16.040 Staff. The director shall employ such administrative, investigative, and clerical staff as needed to implement this chapter. [1984 c 208 § 17.]

18.16.050 Advisory board—Members—Compensation. There is created a state cosmetology, barbering, and manicuring advisory board consisting of five members appointed by the governor who shall advise the director concerning the administration of this chapter. Four members of the board shall be barbers or cosmetologists who are licensed under this chapter and who have been engaged in the practice of barbering or cosmetology for at least three years or who have qualified under RCW 18.16.120(1). One member of the board shall be a consumer who is unaffiliated with the cosmetology, barbering, or manicuring industry. The term of office for board members is three years. The terms of the first board members, however, shall be staggered to ensure an orderly succession of new board members thereafter. Any board member may be removed for just cause. The director may appoint a new member to fill any vacancy on the committee for the remainder of the unexpired term. No board member may serve more than two consecutive terms, whether full or partial.

Board members shall be entitled to compensation at the rate of fifty dollars per day for each day spent conducting official business and to reimbursement for travel expenses under RCW 43.03.050 and 43.03.060. [1984 c 208 § 9.]

18.16.060 Licenses required—Penalty. It is a misdemeanor for any person to do any of the following without first obtaining the license required by this chapter:

(1) Commercial practice of cosmetology, barbering, or manicuring;

(2) Instruct in a school; or

(3) Operate a school. [1984 c 208 § 3.]

18.16.070 Licensing—Persons to whom chapter inapplicable. This chapter shall not apply to persons licensed under other laws of this state who are performing

services within their authorized scope of practice and shall not be construed to require a license for students enrolled in a school. [1984 c 208 § 4.]

18.16.080 Licensing—Other persons to whom chapter inapplicable. Nothing in this chapter prohibits any person authorized under the laws of this state from performing any service for which the person may be licensed, nor prohibits any person from performing services as an electrologist if that person has been otherwise certified, registered, or trained as an electrologist.

This chapter does not apply to persons employed in the care or treatment of patients in hospitals or employed in the care of residents of nursing homes and similar residential care facilities. [1984 c 208 § 19.]

18.16.090 Examinations. Examinations for licensure under this chapter shall be conducted monthly at such times and places as the director determines appropriate. Examinations shall consist of tests designed to reasonably measure the applicant's knowledge of safe and sanitary practice. The director shall annually announce the dates and locations of examinations scheduled for that year. Passing grades shall be based upon a standard of one hundred percent. An applicant who receives a passing grade as determined by the board is entitled to the appropriate license for which the applicant was examined.

All examination papers completed by the applicant shall be kept on file by the director for a period of at least one year and shall be available for inspection by the applicant or the applicant's agent. [1984 c 208 § 10.]

18.16.100 Issuance of licenses—Requirements. Upon payment of the proper fee, the director shall issue the appropriate license to any person who:

(1) Is at least seventeen years of age or older;

(2) Has completed a sixteen hundred hour course of training in cosmetology, an eight hundred hour course of training in barbering, or a five hundred hour course of training in manicuring. The required curriculum shall be determined by the director in consultation with the board; and

(3) Has received a passing grade on a licensing examination administered by the director. [1984 c 208 § 5.]

18.16.110 Issuance of licenses—Renewals. The director shall issue the appropriate license to each applicant who has applied for a license and complied with the requirements established under this chapter for that license. Failure to renew a license before its expiration date subjects the holder to a penalty fee as established by the director in accordance with RCW 43.24.086. A person whose license has not been renewed for three years shall be required to retake the applicable examination before the license may be reissued: *Provided*, That the director may waive this requirement for good cause shown. [1984 c 208 § 12.]

18.16.120 Issuance of licenses—Persons and schools licensed under prior laws. All licenses issued under chapters 18.15 and 18.18 RCW which are issued prior to June 30, 1984, shall remain in effect until October 1, 1984. On or before October 1, 1984, the director shall issue the equivalent license under this chapter to all persons or schools holding such licenses as follows:

(1) Any person licensed as a cosmetology manager-operator under chapter 18.18 RCW, or certified men's hairstylist under chapter 18.15 RCW, shall be issued a cosmetologist license;

(2) Any person licensed as a barber under chapter 18.15 RCW shall retain his or her license;

(3) Any person licensed as a manicurist manager-operator under chapter 18.18 RCW shall be issued a manicurist license;

(4) Any person licensed as an instructor-operator under chapter 18.18 RCW or as a barber instructor under chapter 18.15 RCW shall be issued a cosmetologist instructor license; and

(5) Any cosmetology school licensed under chapter 18.18 RCW and any barber college or school licensed under chapter 18.15 RCW shall be issued a school license. [1984 c 208 § 18.]

18.16.130 Issuance of licenses—Persons licensed in other jurisdictions. Any person who is properly licensed in any state, territory, or possession of the United States, or foreign country shall be issued a license under this chapter without examination if the applicant provides proof to the director that he or she is currently licensed in good standing as a cosmetologist, barber, manicurist, or the equivalent in that jurisdiction and has completed a course of training equivalent to that required under this chapter. [1984 c 208 § 11.]

18.16.140 School licenses—Application—Surety bond—Issuance. Any person wishing to operate a school shall, before opening such a school, file with the director a license application containing the following information:

(1) The names and addresses of all owners and instructors;

(2) Proof that the school's curriculum satisfies the training guidelines established by the director;

(3) The catalogs, brochures, and contract forms the school proposes to use;

(4) A sample of the school's enrollment contract, and cancellation and refund policies;

(5) A description of the school's physical equipment and facilities;

(6) A surety bond not to exceed twenty-five thousand dollars, in a form and amount acceptable to the director, running to the state of Washington for the protection of students of the school, except for community colleges and vocational technical schools.

Upon proper application and payment of fees, the director shall issue a license to operate a school. [1984 c 208 § 6.]

18.16.150 Schools—Compliance with chapter. From time to time as deemed necessary by the director, all schools shall be surveyed for compliance with this chapter. If the director determines that any licensed school is not maintaining the standards required according to this chapter, notice thereof, in writing, shall be given to the school. A school which fails to correct these conditions to the satisfaction of the director within a reasonable time shall, upon due notice to the school, be subject to penalties imposed by the director under RCW 18.16.210. [1984 c 208 § 8.]

18.16.160 Schools—Claims against—Procedure. In addition to any other legal remedy, any student having a claim against a school may bring suit upon the surety bond required in RCW 18.16.140(6) in the superior or district court of Thurston county or the county in which the educational services were offered by the school. Action upon the bond shall be commenced by filing the complaint with the clerk of the appropriate superior or district court within one year from the date of the cancellation of the bond: *Provided*, That no action shall be maintained upon the bond for any claim which has been barred by any nonclaim statute or statute of limitations of this state. Service of process in an action upon the bond shall be exclusively by service upon the director. Two copies of the complaint shall be served by registered or certified mail upon the director at the time the suit is started. Such service shall constitute service on the surety and the school. The director shall transmit the complaint or a copy thereof to the school at the address listed in the director's records and to the surety within forty-eight hours after it has been received. The surety shall not be liable in an aggregate amount in excess of the amount named in the bond. In any action on a bond, the prevailing party is entitled to reasonable attorney's fees and costs.

The director shall maintain a record, available for public inspection, of all suits commenced under this chapter upon surety bonds. [1984 c 208 § 16.]

18.16.200 Disciplinary action—Grounds. Any applicant or licensee under this chapter may be subject to disciplinary action by the director if the licensee or applicant:

(1) Has been found guilty of a crime related to the practice of cosmetology, barbering, or manicuring;

(2) Has made a material misstatement or omission in connection with an application;

(3) Has engaged in false or misleading advertising;

(4) Has performed services in an unsafe or unsanitary manner; or

(5) Has violated any provision of this chapter or any rule adopted under it. [1984 c 208 § 13.]

18.16.210 Violations—Penalties. If, following a hearing, the director finds that an applicant or licensee has violated any provision of this chapter or any rule adopted under it, the director may impose one or more of the following penalties:

(1) Denial of a license or renewal;

- (2) Revocation or suspension of a license;
- (3) A fine of not more than five hundred dollars per violation;
- (4) Issuance of a reprimand or letter of censure;
- (5) Placement of the licensee on probation for a fixed period of time;
- (6) Restriction of the licensee's authorized scope of practice;
- (7) Requiring the licensee to make restitution or a refund as determined by the director to any individual injured by the violation; or
- (8) Requiring the licensee to obtain additional training or instruction. [1984 c 208 § 14.]

18.16.220 Appeal—Procedure. Any person aggrieved by the refusal of the director to issue any license provided for in this chapter, or to renew the same, or by the revocation or suspension of any license issued under this chapter or by the application of any penalty under RCW 18.16.210, shall have the right to appeal the decision of the director to the superior court of the county in which the person maintains his or her place of business. Such appeal shall be filed within thirty days of the director's decision. [1984 c 208 § 15.]

18.16.900 Short title—1984 c 208. This act shall be known and may be cited as the "Washington cosmetologists, barbers, and manicurists act". [1984 c 208 § 20.]

18.16.905 Severability—1984 c 208. 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 208 § 22.]

18.16.907 Effective date—1984 c 208. This act shall take effect July 1, 1984. [1984 c 208 § 23.]

Chapter 18.22 PODIATRY

Sections

- 18.22.014 Board—Meetings—Chairperson—Members' compensation and travel expenses. (Effective July 1, 1985.)
- 18.22.017 Option to adopt uniform disciplinary act.

Health care assistants: Chapter 18.135 RCW.

18.22.014 Board—Meetings—Chairperson—Members' compensation and travel expenses. (Effective July 1, 1985.) The board shall meet at the places and times it determines and as often as necessary to discharge its duties. The board shall elect a chairperson from among its members. Members shall be compensated in accordance with RCW 43.03.240 in addition to travel expenses provided by RCW 43.03.050 and 43.03.060. [1984 c 287 § 26; 1982 c 21 § 9.]

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

[1984 RCW Supp—page 156]

18.22.017 Option to adopt uniform disciplinary act. The podiatry board may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 26.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.25 CHIROPRACTIC

Sections

- 18.25.015 Board created—Composition—Terms.
- 18.25.017 Board—Organization, meetings, rules, compensation, travel expenses—Immunity from suit. (Effective July 1, 1985.)
- 18.25.018 Option to adopt uniform disciplinary act.

18.25.015 Board created—Composition—Terms. There is hereby created a state board of chiropractic examiners consisting of five practicing chiropractors and one consumer member to conduct examinations and perform duties as provided in this chapter.

Members of the board shall be appointed by the governor, who may consider such persons who are recommended for appointment by chiropractic associations of this state. For at least five years preceding the time of their appointment, and during their tenure of office, the members of the board must be actual residents of Washington, licensed to practice chiropractic in this state, and must be citizens of the United States.

Appointments shall be for a term of three years. Vacancies of members shall be filled by the governor as in the case of original appointment, such appointee to hold office for the remainder of the unexpired term. [1984 c 279 § 49; 1980 c 51 § 1; 1965 ex.s. c 50 § 1; 1959 c 53 § 1.]

Severability—1984 c 279: See RCW 18.130.901.

Severability—1980 c 51: "If any provision of this 1980 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 51 § 6.]

18.25.017 Board—Organization, meetings, rules, compensation, travel expenses—Immunity from suit. (Effective July 1, 1985.) The board shall meet as soon as practicable after appointment, and shall elect a chairman and a secretary from its members. Meetings shall be held at least once a year at such place as the director of licensing shall determine, and at such other times and places as he deems necessary.

The board may make such rules and regulations, not inconsistent with this chapter, as it deems necessary to carry out the provisions of this chapter.

Each member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060, all to be paid out of the general fund on vouchers approved by the director, but not to exceed in the aggregate the amount of fees collected as provided in this chapter.

Members of the board shall be immune from suit in any action, civil or criminal, based upon their duties or other official acts performed in good faith as members of such board. [1984 c 287 § 27; 1975-'76 2nd ex.s. c 34 § 32; 1974 ex.s. c 97 § 8; 1959 c 53 § 2.]

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.

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

18.25.018 Option to adopt uniform disciplinary act.

The board of chiropractic examiners, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 27.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.26

CHIROPRACTIC DISCIPLINARY BOARD

Sections

- 18.26.027 Option to adopt uniform disciplinary act.
18.26.070 Compensation and travel expenses of members. (Effective July 1, 1985.)

18.26.027 Option to adopt uniform disciplinary act.

The chiropractic disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 28.]

Severability—1984 c 279: See RCW 18.130.901.

18.26.070 Compensation and travel expenses of members. (Effective July 1, 1985.) Members of the board may be compensated in accordance with RCW 43.03.240 and may be paid their travel expenses while engaged in the business of the board in accordance with RCW 43.03.050 and 43.03.060, with such reimbursement to be paid out of the general fund on vouchers signed by the director of licensing. [1984 c 287 § 28; 1980 c 46 § 2. Prior: 1979 ex.s. c 111 § 20; 1979 c 158 § 22; 1975-'76 2nd ex.s. c 34 § 33; 1974 ex.s. c 97 § 14; 1967 c 171 § 7.]

Sunset Act application: See note following chapter digest.

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

Severability—1979 ex.s. c 111: See note following RCW 18.72.030.

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

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

Chapter 18.29

DENTAL HYGIENIST

Sections

- 18.29.031 Examinations—Committee—Duties—Compensation and travel expenses. (Effective July 1, 1985.)

18.29.056 Employment by health care facilities authorized—Limitations.

18.29.075 Option to adopt uniform disciplinary act.

18.29.031 Examinations—Committee—Duties—Compensation and travel expenses. (Effective July 1, 1985.) The director of licensing shall appoint a committee of three licensed dental hygienists to prepare and conduct examinations for dental hygiene licensure. The committee shall require an applicant for licensure to pass an examination consisting of written and practical tests upon such subjects and of such scope as the committee determines. The standards for passage of the examination shall be set by the committee. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

At least two examinations shall be given each calendar year in conjunction with examinations for licensure of dentists under chapter 18.32 RCW. [1984 c 287 § 29; 1983 c 168 § 14.]

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

Severability—1983 c 168: See RCW 18.120.910.

18.29.056 Employment by health care facilities authorized—Limitations. (1) Dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may be employed or retained by health care facilities to perform authorized dental hygiene operations and services without dental supervision, limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment. The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities. For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section, "health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, handicapped, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities. [1984 c 279 § 63.]

Severability—1984 c 279: See RCW 18.130.901.

18.29.075 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 29.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.32
DENTISTRY

Sections

- 18.32.035 Board of dental examiners—Creation—Membership—Terms—Powers—Vacancies—Compacts and agreements with other states.
 18.32.038 Option to adopt uniform disciplinary act.
 18.32.050 Board—Members' compensation and travel expenses. (Effective July 1, 1985.)
 18.32.535 Option to adopt uniform disciplinary act.
 18.32.560 Board created—Composition—Attorney general as legal counsel.
 18.32.600 Compensation and travel expenses of members. (Effective July 1, 1985.)
 18.32.620 Officers—Meetings—Quorum.

18.32.035 Board of dental examiners—Creation—Membership—Terms—Powers—Vacancies—Compacts and agreements with other states. There shall be a board of dental examiners consisting of nine practicing dentists and one consumer member, to be known as the Washington state board of dental examiners.

The members shall be appointed by the governor in the manner hereinafter set forth and at the time of their appointment upon said board must be actual residents of the state in active practice of dentistry or dental surgery as hereinafter defined and must have been for a period of five years or more legally licensed to practice dentistry or dental surgery in this state: *Provided, however,* That no person shall be eligible to appointment to said board who is in any way connected with or interested in any dental college or dental department of any institution of learning. Members shall be appointed to the board to serve for terms of five years from July 1 of the year in which they are appointed.

In case of a vacancy occurring on said board, such vacancy shall be filled by the governor as herein provided for the remainder of the term of the vacancy.

The board shall have the power to employ competent persons on a temporary basis to assist in conducting examinations for licensure.

The board shall have the authority to enter into compacts and agreements with other states and with organizations formed by several states, for the purpose of conducting multi-state licensing examinations. The board may enter into such compacts and agreements even though they would result in the examination of a candidate for a license in this state by an examiner or examiners from another state or states, and even though they would result in the examination of a candidate or candidates for a license in another state or states by an examiner or examiners from this state. [1984 c 279 § 50; 1979 c 38 § 1; 1975 c 49 § 1; 1953 c 93 § 2; 1941 c 92 § 1; 1935 c 112 § 2; Rem. Supp. 1941 § 10031-2. Formerly RCW 43.68.010.]

Severability—1984 c 279: See RCW 18.130.901.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.32.038 Option to adopt uniform disciplinary act. The board of dental examiners, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 30.]

Severability—1984 c 279: See RCW 18.130.901.

18.32.050 Board—Members' compensation and travel expenses. (Effective July 1, 1985.) The members of the board shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in attending the meetings of the board in accordance with RCW 43.03.050 and 43.03.060. Board members shall be compensated and reimbursed pursuant to this section for their activities in administering a multi-state licensing examination pursuant to the board's compact or agreement with another state or states or with organizations formed by several states: *Provided,* That any compensation or reimbursement received by a board member from another state, or organization formed by several states, for such member's services in administering a multi-state licensing examination, shall be deposited in the state general fund. [1984 c 287 § 30; 1979 c 38 § 3; 1975-'76 2nd ex.s. c 34 § 34; 1967 c 188 § 2; 1957 c 52 § 23; 1953 c 93 § 3. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

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.

18.32.535 Option to adopt uniform disciplinary act. The dental disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 31.]

Severability—1984 c 279: See RCW 18.130.901.

18.32.560 Board created—Composition—Attorney general as legal counsel. There is hereby created the Washington state dental disciplinary board, which shall be composed of five members, each of whom shall be a resident of this state engaged in the active practice of dentistry and who shall have been licensed to practice dentistry in this state for a period of five years or more prior to appointment to the board. Of the five members appointed to the board, two members shall reside and engage in the active practice of dentistry east of the summit of the Cascade range and the other three members shall reside and engage in the active practice of dentistry west of the summit of the Cascade range.

The attorney general shall be counsel to the board and shall represent it in all legal proceedings.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board. The consumer member shall serve a term of six years commencing on October 1st. [1984 c 279 § 51; 1977 ex.s. c 5 § 6.]

Severability—1984 c 279: See RCW 18.130.901.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.32.600 Compensation and travel expenses of members. (Effective July 1, 1985.) 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 while engaged in business of the board. [1984 c 287 § 31; 1977 ex.s. c 5 § 10.]

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

18.32.620 Officers—Meetings—Quorum. The board shall elect from its members a chairman, vice chairman, and secretary, who shall serve for one year and until their successors are elected and qualified. The board shall meet at least once a year or upon the call of the chairman at such times and places as the chairman shall designate. Four members shall constitute a quorum to transact business. [1984 c 279 § 62; 1977 ex.s. c 5 § 12.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.34 DISPENSING OPTICIANS

Sections

- 18.34.050 Examining committee—Compensation and travel expenses. (Effective July 1, 1985.)
18.34.120 Annual renewal—Fee—Reinstatement—Penalty—Establishment of continuing education requirements optional.
18.34.135 Option to adopt uniform disciplinary act.

18.34.050 Examining committee—Compensation and travel expenses. (Effective July 1, 1985.) The examining committee shall consist of three persons primarily engaged in the business of dispensing opticians and who currently hold a valid license under this chapter. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 32; 1957 c 43 § 5.]

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

18.34.120 Annual renewal—Fee—Reinstatement—Penalty—Establishment of continuing education requirements optional. Each licensee hereunder shall pay an annual renewal registration fee determined by the director as provided in RCW 43.24.086, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director and payment of a penalty determined by the director as provided in RCW 43.24.086, together with all delinquent annual license renewal fees. In addition, the

director of licensing may adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [1984 c 279 § 52; 1975 1st ex.s. c 30 § 35; 1957 c 43 § 12.]

Severability—1984 c 279: See RCW 18.130.901.

18.34.135 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 32.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.35 HEARING AIDS

Sections

- 18.35.150 Council on hearing aids—Created—Membership—Qualifications—Terms—Vacancies—Meetings—Compensation—Travel expenses. (Effective July 1, 1985.)
18.35.173 Option to adopt uniform disciplinary act.

18.35.150 Council on hearing aids—Created—Membership—Qualifications—Terms—Vacancies—Meetings—Compensation—Travel expenses. (Effective July 1, 1985.) (1) There is created hereby the council on hearing aids. The council shall consist of nine members to be appointed by the governor.

(2) Members of the council shall be residents of this state. Five members shall be persons experienced in the fitting of hearing aids who shall hold valid licenses under this chapter. One member shall be a medical doctor specializing in diseases of the ear. One member shall be a nondispensing audiologist. Two members shall represent the public.

(3) The term of office of a member is three years, except that the governor may appoint the initial members to one or two year terms to ensure an orderly succession of members. A member shall continue to serve until a successor has been appointed and qualifies. Before a member's term expires, the governor shall appoint a successor to assume his duties at the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chairman of the council shall be elected from the membership of the council at the beginning of each year.

(5) The council shall meet at least once each year, at a place, day and hour determined by the council, unless otherwise directed by a majority of council members. The council shall also meet at such other times and places as are requested by the department or by three members of the council.

(6) Members of the council 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 § 33; 1983

c 39 § 12; 1975-'76 2nd ex.s. c 34 § 35; 1973 1st ex.s. c 106 § 15.]

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.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.35.173 Option to adopt uniform disciplinary act. The council on hearing aids may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 33.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.36 DRUGLESS HEALING

Sections

18.36.135 Option to adopt uniform disciplinary act.

18.36.135 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 34.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.39 EMBALMERS—FUNERAL DIRECTORS

Sections

18.39.175 Board of funeral directors and embalmers—Duties and responsibilities—Revocation of licenses—Compensation—Travel expenses. (Effective until July 1, 1985.)

18.39.175 Board of funeral directors and embalmers—Duties and responsibilities—Revocation of licenses—Compensation—Travel expenses. (Effective July 1, 1985.)

18.39.176 Option to adopt uniform disciplinary act.

18.39.175 Board of funeral directors and embalmers—Duties and responsibilities—Revocation of licenses—Compensation—Travel expenses. (Effective until July 1, 1985.) Each member of the board of funeral directors and embalmers shall receive compensation of twenty-five dollars for each board meeting attended, together with travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

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(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;

(4) To adopt, promulgate, and enforce reasonable rules; and

(5) To suspend or revoke any license, after proper hearing and notice to the licensee, if the licensee has committed any of the following:

(a) A crime involving moral turpitude and resulting in a conviction;

(b) Unprofessional conduct, which includes:

(i) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

(ii) False or misleading advertising as a funeral director or embalmer;

(iii) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of pre-need funeral plans;

(iv) Employment by the licensee of persons known as "cappers," "steerers," "solicitors" or other persons to obtain funeral directing or embalming business;

(v) Employment directly or indirectly of any person for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

(vi) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees, for the purpose of securing business;

(vii) Aiding or abetting an unlicensed person to practice funeral directing or embalming;

(viii) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;

(ix) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body without the written consent of next of kin;

(x) Violation of any of the provisions of this chapter or the rules in support thereof;

(xi) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies;

(xii) Fraud or misrepresentation in obtaining a license;

(xiii) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to its custody;

(xiv) Selling, or offering for sale, a share, certificate, or an interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises or purports to give to purchasers a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public; or

(xv) Knowingly concealing information concerning a violation of this chapter;

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [1984 c 279 § 53; 1981 c 43 § 11; 1977 ex.s. c 93 § 9.]

Severability—1984 c 279: See RCW 18.130.901.

18.39.175 Board of funeral directors and embalmers—Duties and responsibilities—Revocation of licenses—Compensation—Travel expenses. (Effective July 1, 1985.) Each member of the board of funeral directors and embalmers shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;

(4) To adopt, promulgate, and enforce reasonable rules; and

(5) To suspend or revoke any license, after proper hearing and notice to the licensee, if the licensee has committed any of the following:

(a) A crime involving moral turpitude and resulting in a conviction;

(b) Unprofessional conduct, which includes:

(i) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

(ii) False or misleading advertising as a funeral director or embalmer;

(iii) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of pre-need funeral plans;

(iv) Employment by the licensee of persons known as "cappers," "steerers," or "solicitors" or other persons to obtain funeral directing or embalming business;

(v) Employment directly or indirectly of any person for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

(vi) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees, for the purpose of securing business;

(vii) Aiding or abetting an unlicensed person to practice funeral directing or embalming;

(viii) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;

(ix) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body without the written consent of next of kin;

(x) Violation of any of the provisions of this chapter or the rules in support thereof;

(xi) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies;

(xii) Fraud or misrepresentation in obtaining a license;

(xiii) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to its custody;

(xiv) Selling, or offering for sale, a share, certificate, or an interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises or purports to give to purchasers a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public; or

(xv) Knowingly concealing information concerning a violation of this chapter;

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal. [1984 c 287 § 34; 1984 c 279 § 53; 1981 c 43 § 11; 1977 ex.s. c 93 § 9.]

Reviser's note: This section was amended by 1984 c 287 § 34, effective July 1, 1985, and by 1984 c 279 § 53, 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.

Severability—1984 c 279: See RCW 18.130.901.

18.39.176 Option to adopt uniform disciplinary act. The board of funeral directors and embalmers may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 35.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.43

ENGINEERS AND LAND SURVEYORS

Sections

18.43.030 Board of registration—Members—Terms—Qualifications—Compensation and travel expenses. (Effective July 1, 1985.)

18.43.030 Board of registration—Members—Terms—Qualifications—Compensation and travel expenses. (Effective July 1, 1985.) A state board of registration for professional engineers and land surveyors is hereby created which shall exercise all of the powers

and perform all of the duties conferred upon it by this chapter. The board shall consist of five registered professional engineers, who shall be appointed by the governor and shall have the qualifications as hereinafter required. The members of the first board shall be appointed within thirty days after June 11, 1947, to serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duty. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of five years a registered professional engineer having the qualifications as hereinafter required, to take the place of the member whose term on said board is about to expire. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified.

Each member of the board shall be a citizen of the United States and shall have been a resident of this state for at least five years immediately preceding his appointment, and shall have been engaged in the practice of the profession of engineering for at least twelve years, and shall have been in responsible charge of important engineering work for at least five years. Responsible charge of engineering teaching may be construed as responsible charge of important engineering work.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and, in addition thereto, shall be reimbursed for travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060.

The governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as hereinabove provided. [1984 c 287 § 35; 1975-'76 2nd ex.s. c 34 § 37; 1947 c 283 § 3; Rem. Supp. 1947 § 8306-23.]

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.

Chapter 18.44

ESCROW AGENT REGISTRATION ACT

Sections

- 18.44.208 Escrow commission—Members—Terms—Compensation and travel expenses. (Effective July 1, 1985.)
- 18.44.215 Compensation and travel expenses of commission members. (Effective July 1, 1985.)

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18.44.208 Escrow commission—Members—Terms—Compensation and travel expenses. (Effective July 1, 1985.) There is established an escrow commission of the state of Washington, to consist of the director of licensing as ex officio member and chairman, and five members who shall act as advisors to the director as to the needs of the escrow profession and who shall be appointed by the governor, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

The members of the first commission shall serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the commission shall receive a certificate of appointment from the governor and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The governor may remove any member of the commission for cause. Vacancies in the commission for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 36.]

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

18.44.215 Compensation and travel expenses of commission members. (Effective July 1, 1985.) The escrow commission members shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the commission. [1984 c 287 § 37; 1977 ex.s. c 156 § 29.]

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

Chapter 18.50 MIDWIFERY

Sections

- 18.50.125 Option to adopt uniform disciplinary act.

18.50.125 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of

the disciplinary provisions outlined under this chapter. [1984 c 279 § 36.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.51 NURSING HOMES

Sections

- 18.51.100 Nursing home advisory council—Members—Terms. (Effective July 1, 1985.)
18.51.320 Contact with animals—Rules.

Employment of dental hygienist without supervision of dentist authorized: RCW 18.29.056.

18.51.100 Nursing home advisory council—Members—Terms. (Effective July 1, 1985.) The governor shall appoint a nursing home advisory council. The council shall be comprised of:

(1) Five members of the general public who are not owners or employees of a nursing home or engaged by a nursing home. Of these five members, one shall be a representative of senior citizens, one shall be a representative of a health care consumer group, and one shall be a licensed certified public accountant;

(2) Three members who are nursing home operators, one of whom shall operate a nonprofit nursing home;

(3) One member of the association of nursing home administrators;

(4) One member of the state medical association; and

(5) One member of the state nurses association.

The governor shall choose one of the five members from the general public to be chairman of the advisory nursing home council. Each member of the council shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. Each member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first taking office shall expire, as designated at the time of appointment, two at the end of the first year, three at the end of the second year, three at the end of the third year, and two at the end of the fourth year after the date of appointment. Thereafter all appointments shall be for four years. The council shall meet as frequently as the chairman deems necessary, but not less than quarterly each year. Upon request by four or more members, it shall be the duty of the chairman to call a meeting of the council. [1984 c 287 § 39; 1979 ex.s. c 211 § 65; 1971 ex.s. c 85 § 1; 1951 c 117 § 11.]

Reviser's note—Sunset Act application: The nursing home advisory council is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.301. RCW 18.51.100 and 18.51.110 are scheduled for future repeal under RCW 43.131.302.

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

18.51.320 Contact with animals—Rules. (1) A nursing home licensee shall give each patient a reasonable opportunity to have regular contact with animals. The licensee may permit appropriate animals to live in the facilities and may permit appropriate animals to visit if the animals are properly supervised.

(2) The department shall adopt rules for the care, type, and maintenance of animals in nursing home facilities. [1984 c 127 § 2.]

Intent—1984 c 127: "The legislature finds that the senior citizens of this state, particularly those living in low-income public housing or in nursing homes, often lead lonely and harsh lives. The legislature recognizes that the warmth and companionship provided by pets can significantly improve the quality of senior citizens' lives. This legislation is intended to insure that senior citizens and persons in nursing homes will not be deprived of access to pets." [1984 c 127 § 1.]

Chapter 18.52 NURSING HOME ADMINISTRATORS

Sections

- 18.52.055 Board of examiners for nursing home administrators—Immunity.
18.52.060 Board of examiners for nursing home administrators—Officers—Meetings—Compensation and travel expenses—Personnel. (Effective July 1, 1985.)
18.52.065 Option to adopt uniform disciplinary act.
18.52.070 Qualifications of licensees—Examinations.
18.52.080 Repealed.
18.52.090 Licensing duties and responsibilities of director.
18.52.110 Reregistration of licenses.
18.52.120 Suspension, revocation, or refusal of reregistration of licenses.
18.52.160 Examinations—Times and places—Meetings of board.

18.52.055 Board of examiners for nursing home administrators—Immunity. Members of the board and the board's staff shall be immune from liability in any suit in any action, civil or criminal, based upon their duties or other official acts performed in good faith as members or staff of the board, when the action is being brought by or on behalf of the person who is being evaluated. [1984 c 279 § 72.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.060 Board of examiners for nursing home administrators—Officers—Meetings—Compensation and travel expenses—Personnel. (Effective July 1, 1985.) The board shall elect from its membership a chairman, vice chairman, and secretary-treasurer, and shall adopt rules and regulations to govern its proceedings. The chairman or four board members by signed written request may call board meetings upon reasonable written notice to each member. Each member 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. A full-time or part-time executive secretary for the board may be employed by the director through the department of licensing, and the director through the department of licensing shall provide the executive secretary and the board with such secretarial, administrative, and other assistance as may

be required to carry out the purposes of this chapter. Employment of an executive secretary shall be subject to confirmation by the board. The position of executive secretary shall be exempt from the requirements of chapter 41.06 RCW. [1984 c 287 § 40; 1979 c 158 § 45; 1975-'76 2nd ex.s. c 34 § 38; 1970 ex.s. c 57 § 6.]

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.

18.52.065 Option to adopt uniform disciplinary act.

The board of examiners for nursing home administrators may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 37.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.070 Qualifications of licensees—Examinations. Upon the director's receipt of an application and examination fee determined by the director as provided in RCW 43.24.086, and completed application forms provided by the director, a nursing home administrator's license shall be issued to any person who:

(1) Is at least twenty-one years of age and of good moral character.

(2) Has presented evidence satisfactory to the board of practical experience, education, and training which, when evaluated according to criteria developed by the board, is equivalent to two years of experience in the operation of a nursing home: *Provided*, That after January 1, 1980, no license shall be issued to any applicant unless such applicant has either successfully completed at least two years of formal education beyond the high school level or holds an associate degree from a recognized institution of higher learning: *Provided further*, That the educational degree required by this subsection may be waived for individuals who present evidence satisfactory to the board of sufficient practical experience.

(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal instruction and training or actual experience: *Provided however*, That nothing in this chapter or the rules and regulations thereunder shall be construed to require an applicant for a license or provisional license as a nursing home administrator who is certified by any well established and generally recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions: *Provided further*, That any such individual shall demonstrate in the process of application for the examination his membership in such church or religious denomination and his license shall

indicate the limited extent of his authority to act as an administrator.

(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970. [1984 c 279 § 65; 1977 ex.s. c 243 § 2; 1975 1st ex.s. c 30 § 52; 1970 ex.s. c 57 § 7.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.52.090 Licensing duties and responsibilities of director. The director shall have the administrative duty and responsibility to:

(1) Issue nursing home administrator's licenses to individuals who meet the licensing requirements of RCW 18.52.070;

(2) Investigate complaints against nursing home administrators, and upon order of the board reprimand any licensee, or revoke, suspend, deny, or refuse to reregister the license of any licensee or applicant who fails to meet the applicable requirements of this chapter. [1984 c 279 § 68; 1977 ex.s. c 243 § 3; 1970 ex.s. c 57 § 9.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.110 Reregistration of licenses. (1) Every holder of a nursing home administrator's license shall reregister it annually with the director on dates specified by the director by making application for reregistration on forms provided by the director. Such reregistration shall be granted automatically upon receipt of a fee determined by the director as provided in RCW 43.24.086. In the event that any license is not reregistered within thirty days after the date for reregistration specified by the director, the director shall, in accordance with rules prescribed by the board, give notice to the license holder, and may thereafter in accordance with rules prescribed by the board charge up to double the normal reregistration fee. In the event that the license of an individual is not reregistered within two years from the most recent date for reregistration it shall lapse and such individual must again apply for licensing and meet all requirements of this chapter for a new applicant. The board may prescribe rules for maintenance of a license at a reduced fee for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.

(2) A condition of reregistration shall be the presentation of proof by the applicant that he has attended the number of classroom hours of approved educational programs, classes, seminars, or proceedings set by the board. The board shall have the power to approve programs, classes, seminars, or proceedings offered in this state or elsewhere by any accredited institution of higher learning or any national or local group or society if such programs, classes, seminars, or proceedings are reasonably related to the administration of nursing homes. The board shall establish rules and regulations providing that the applicant for reregistration may present such proofs yearly, or may obtain the cumulative number of required hours over a three year period and present such proofs over periods of three years. In no event shall the number of classroom hours required for any time period exceed the number of such board approved classroom hours reasonably available over such time period on an adult or continuing education basis to nonmatriculating participants in this state.

(3) An individual may obtain and reregister a license under this chapter although he does not actively engage in nursing home administration. The licensee shall meet requirements set by the board to ensure the individual's continued competency. [1984 c 279 § 69; 1975 1st ex.s. c 30 § 54; 1971 ex.s. c 266 § 9; 1970 ex.s. c 57 § 11.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.120 Suspension, revocation, or refusal of re-registration of licenses. The director, after any notice and hearing before the board which may be required by law, and upon the order of the board, shall, subject to any deferral or condition ordered, refuse to reregister or shall suspend or revoke an administrator's license, or issue a reprimand as directed by the board, as provided in this chapter when proof has been submitted to the board that:

(1) The licensee has committed any fraud or material misrepresentation or concealment in obtaining or maintaining the license.

(2) The license was obtained due to the mistake or inadvertence of the board or the director.

(3) The licensee has knowingly or repeatedly violated any of the provisions of this chapter or of the rules promulgated by the board in accordance with this chapter or authorized or directed another so to act.

(4) The licensee has knowingly or repeatedly violated rules promulgated by the department of social and health services or the state board of health concerning patient care in a manner demonstrating a substantial disregard for patient health and safety.

(5) The licensee is unable to administer a nursing home with due regard for patient health and safety by reason of habitual, intemperate use of alcohol, controlled substances, or other chemicals or materials; or the licensee is similarly incapacitated by mental illness, insanity, mental disorder, or some other condition which creates an undue risk that the person would cause harm to other persons by being a nursing home administrator.

(6) The licensee has committed any act involving moral turpitude, dishonesty, or corruption, committed in

the course of his or her duties as a nursing home administrator, whether or not the act constitutes a crime.

(7) The licensee has been negligent or has committed misconduct in the administration of a nursing home.

(8) The licensee has participated in or has offered or agreed to participate in, any arrangement whereby any payment or rebate is given to any party in return for the referral of a patient to the facility the licensee administers, or for referral by such licensee of a patient to any party for rendition of professional services to such patient.

(9) The licensee or applicant has previously been refused a license as an administrator or had renewal thereof refused, or has had such a license suspended or revoked by any competent state, federal, or foreign authority: *Provided*, That a suspension, revocation, refusal to issue or refusal to reregister a license under this subsection must be based upon a showing in the record of such previous proceedings which would constitute a proper basis for the action proposed under the provisions of this chapter, and the licensee or applicant shall, on request, have the opportunity to challenge the fairness of the previous proceedings or the correctness of the factual determinations involved.

Administrators whose licenses have been revoked, or to whom reregistration has been refused, may, on subsequent application be licensed, relicensed, or reregistered, according to such rules or regulations as may be prescribed by the board and according to standards prescribed by the board. Suspended licenses are automatically in force at the expiration of the period of suspension specified in the board's order, but must be reregistered in the normal course if they expire during the period of suspension. [1984 c 279 § 70; 1977 ex.s. c 243 § 5; 1975 1st ex.s. c 97 § 2; 1970 ex.s. c 57 § 12.]

Severability—1984 c 279: See RCW 18.130.901.

18.52.160 Examinations—Times and places—Meetings of board. The board shall meet as often as may be necessary to carry out the duties of the board under this chapter. Examinations shall be administered at intervals not less than semiannually and at such times and places as may be determined by the board. There shall not be a limit upon the number of times a candidate may take the required examination. [1984 c 279 § 71; 1970 ex.s. c 57 § 17.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.54 OPTOMETRY BOARD

Sections

18.54.030	Composition—Appointments—Qualifications—Terms—Vacancies.
18.54.075	Option to adopt uniform disciplinary act.
18.54.130	Compensation and travel expenses of members. (Effective July 1, 1985.)

18.54.030 Composition—Appointments—Qualifications—Terms—Vacancies. The initial

composition of the optometry board includes the three members of the examining committee for optometry plus two more optometrists to be appointed by the governor.

The governor must make all appointments to the optometry board. Only optometrists who are citizens of the United States, residents of this state, having been licensed to practice and practicing optometry in this state for a period of at least four years immediately preceding the effective date of appointment, and who have no connection with any school or college embracing the teaching of optometry or with any optical supply business may be appointed.

The governor may set the terms of office of the initial board at his discretion, to establish the following perpetual succession: The terms of the initial board include one position for one year, two for two years and two for three years; and upon the expiration of the terms of the initial board, all appointments are for three years.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a vacancy occurs on the board in the middle of an appointee's term, the governor must appoint a successor for the unexpired portion of the term only. [1984 c 279 § 54; 1963 c 25 § 3.]

Severability—1984 c 279: See RCW 18.130.901.

18.54.075 Option to adopt uniform disciplinary act. The optometry board may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 38.]

Severability—1984 c 279: See RCW 18.130.901.

18.54.130 Compensation and travel expenses of members. (Effective July 1, 1985.) Members of the board are entitled to receive their travel expenses in accordance with RCW 43.03.050 and 43.03.060. Each member of the board will also be compensated in accordance with RCW 43.03.240. [1984 c 287 § 41; 1975-'76 2nd ex.s. c 34 § 39; 1967 c 188 § 3; 1963 c 25 § 13.]

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.

Chapter 18.55 OCULARISTS

Sections

18.55.065 Option to adopt uniform disciplinary act.

18.55.065 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 39.]

Severability—1984 c 279: See RCW 18.130.901.

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Chapter 18.57

OSTEOPATHY—OSTEOPATHIC MEDICINE AND SURGERY

Sections

18.57.003 State board of osteopathic medicine and surgery—Membership—Terms—Qualifications—Officers—Meetings—Compensation and travel expenses—Removal. (Effective July 1, 1985.)

18.57.009 Option to adopt uniform disciplinary act.

Health care assistants: Chapter 18.135 RCW.

18.57.003 State board of osteopathic medicine and surgery—Membership—Terms—Qualifications—Officers—Meetings—Compensation and travel expenses—Removal. (Effective July 1, 1985.) There is hereby created an agency of the state of Washington, consisting of seven individuals appointed by the governor to be known as the Washington state board of osteopathic medicine and surgery.

The members of the first board shall be appointed to serve the following terms from the date of their appointment: Two members for two years, two members for three years, and three members for five years, or until their successors are appointed and fully qualified. The respective terms of office of such initial appointees shall be designated by the governor at the time of appointment. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified. Initial appointments shall be made and vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor.

Each member of the board shall be a citizen of the United States and must be an actual resident of this state. One member shall be a consumer who has neither a financial nor a fiduciary relationship to a health care delivery system, and every other member must have been in active practice as a licensed osteopathic physician and surgeon in this state for at least five years immediately preceding appointment.

The board shall meet as soon as practicable after appointment and elect a chairman and a secretary from its members. Meetings of the board shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

It shall require the affirmative vote of a majority of all the members of the board to take any official action.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the physicians licensed under this chapter and in active practice in this state. [1984 c 287 § 42; 1979 c 117 § 2.]

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

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.57.009 Option to adopt uniform disciplinary act.

The board of osteopathic medicine may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 40.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.59

OCCUPATIONAL THERAPY

Sections

18.59.005	Regulation of health care professions—Criteria.
18.59.010	Purpose.
18.59.020	Definitions.
18.59.030	License required.
18.59.040	Practice, services, or activities not prevented or restricted by chapter—Limited permits.
18.59.050	Licenses—Application—Requirements—Waiver.
18.59.060	Examinations.
18.59.070	Waiver of examination and licensing requirements—Applicants licensed in other states or territories.
18.59.080	Licenses—Issuance—Posting required.
18.59.090	Renewal of licenses—Reinstatement of suspended or revoked licenses—Inactive status.
18.59.100	Denial, refusal to renew, suspension, or revocation of a license—Probationary conditions—Grounds—Reinstatement.
18.59.110	Fees.
18.59.120	Board of occupational therapy practice established—Members—Terms—Meetings—Compensation.
18.59.130	Board—Powers and duties—Rules—Hearings, notice.
18.59.140	Option to adopt uniform disciplinary act.
18.59.150	Board—Staff.
18.59.200	Violations—Penalties.
18.59.900	Short title.
18.59.905	Severability—1984 c 9.

Health professions account—Fees credited—Requirements for biennial budget request: RCW 43.24.072.

18.59.005 Regulation of health care professions—Criteria. See chapter 18.120 RCW.

18.59.010 Purpose. In order to safeguard the public health, safety, and welfare; to protect the public from being misled by incompetent, unethical, and unauthorized persons; to assure the highest degree of professional conduct on the part of occupational therapists and occupational therapy assistants; and to assure the availability of occupational therapy services of high quality to persons in need of such services, it is the purpose of this chapter to provide for the regulation of persons offering occupational therapy services to the public. [1984 c 9 § 2.]

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

(1) "Board" means the board of occupational therapy practice.

(2) "Occupational therapy" is the scientifically based use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. The practice encompasses evaluation, treatment, and consultation. Specific occupational therapy services include but are not limited to: Using specifically designed activities and exercises to enhance neurodevelopmental, cognitive, perceptual motor, sensory integrative, and psychomotor functioning; administering and interpreting tests such as manual muscle and sensory integration; teaching daily living skills; developing prevocational skills and play and avocational capabilities; designing, fabricating, or applying selected orthotic and prosthetic devices or selected adaptive equipment; and adapting environments for the handicapped. These services are provided individually, in groups, or through social systems.

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter.

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the supervision or with the regular consultation of an occupational therapist.

(5) "Occupational therapy aide" means a person who is trained to perform specific occupational therapy techniques under professional supervision as defined by the board but who does not perform activities that require advanced training in the sciences or practices involved in the profession of occupational therapy.

(6) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this chapter.

(7) "Department" means the department of licensing.

(8) "Director" means the director of licensing. [1984 c 9 § 3.]

18.59.030 License required. No person may practice occupational therapy or hold oneself out as an occupational therapist or occupational therapy assistant, or as being able to practice occupational therapy, or to render occupational therapy services in this state unless the person is licensed in accordance with, or is in compliance with, this chapter. [1984 c 9 § 4.]

18.59.040 Practice, services, or activities not prevented or restricted by chapter—Limited permits. This chapter shall not be construed as preventing or restricting the practice, services, or activities of:

(1) A person licensed in this state under any other law from engaging in the profession or occupation for which the person is licensed;

(2) A person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the directions or control of the organization by which the person is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title which clearly indicated the person's status as a student or trainee;

(4) A person fulfilling the supervised fieldwork experience requirements of RCW 18.59.050, if the activities and services constitute a part of the experience necessary to meet the requirements of RCW 18.59.050;

(5) A person performing occupational therapy services in the state, if the services are performed for no more than ninety working days and if:

(a) The person is licensed under the laws of another state which has licensure requirements at least as stringent as the requirements of this chapter, as determined by the board; or

(b) The person has met commonly accepted standards for the practice of occupational therapy as specifically defined by the board;

(6) A person employed by or supervised by an occupational therapist as an occupational therapy aide; or

(7) A person with a limited permit. A limited permit may be granted to persons who have completed the education and experience requirements of this chapter, or education and experience requirements which the board deems equivalent to those specified as requirements for licensure. The limited permit allows the applicant to practice in association with an occupational therapist. The limited permit is valid until the results of the next examination have been made public. One extension of this permit may be granted if the applicant has failed the examination, but during this period the person shall be under the direct supervision of an occupational therapist. [1984 c 9 § 5.]

18.59.050 Licenses—Application—Requirements—Waiver. (1) An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application on forms provided by the department showing to the satisfaction of the board that the applicant meets the requirements specified in this subsection.

(a) The applicant shall be of good moral character.

(b) The applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board, with concentration in biological or physical science, psychology, sociology, and with education in selected manual skills.

(i) For an occupational therapist, such a program shall be nationally accredited and approved by rules of the board.

(ii) For an occupational therapy assistant, such a program shall be nationally accredited and approved by rules of the board.

(c) The applicant shall submit to the board evidence of having successfully completed a period of supervised

fieldwork experience at a recognized educational institution or a training program approved by the educational institution at which the applicant met the academic requirements.

(i) For an occupational therapist, a minimum of six months of supervised fieldwork experience is required.

(ii) For an occupational therapy assistant, a minimum of two months of supervised fieldwork experience is required.

(d) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided in RCW 18.59.060.

(2) The board may waive the educational requirements specified under subsection (1)(b)(ii) of this section for an occupational therapy assistant who has met the experience and any other requirements established by the board. Upon successful completion of the examination required of the occupational therapist, the individual shall be granted a license. [1984 c 9 § 6.]

18.59.060 Examinations. (1) A person applying for licensure shall demonstrate eligibility in accordance with RCW 18.59.050 and shall apply for examination upon a form and in such a manner as the department prescribes. The application shall be accompanied by the fee prescribed by RCW 18.59.110, which fee shall not be refunded. A person who fails an examination may apply for reexamination. The application shall be accompanied by the prescribed fee.

(2) An applicant for licensure under this chapter shall be given a written examination to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy and occupational therapy theory and practice, including the applicant's professional skills of occupational therapy techniques and methods, and such other subjects as the board deems useful to determine the applicant's fitness to practice. The board shall approve the examination and establish standards for acceptable performance.

(3) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine. The examination shall be given at least twice each year at such places as the board determines, and the board shall give reasonable public notice of the examinations in accordance with its rules at least sixty days prior to the administration of the examination.

(4) Applicants may obtain their examination scores and may review their papers in accordance with such rules as the board establishes. [1984 c 9 § 7.]

18.59.070 Waiver of examination and licensing requirements—Applicants licensed in other states or territories. (1) The board shall waive the examination and grant a license to a person engaged in the profession of an occupational therapist or an occupational therapy assistant on June 7, 1984, if the board determines that the person meets commonly accepted standards for the profession, as established by rule of the board. The board may waive the examination, education, or experience requirements and grant a license to any person meeting the standards adopted by the board under this section

after June 7, 1984, if the board considers the requirements for licensure in this chapter as having been met.

(2) The board may grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States, which requires standards for licensure considered by the board to be equivalent to the requirements for licensure under this chapter.

(3) The board shall waive the education and experience requirements for licensure in RCW 18.59.050(1)(c) and (d) for applicants for licensure who present evidence to the board that they have been engaged in the practice of occupational therapy for the three years immediately prior to June 7, 1984. The proof of actual practice shall be presented to the board in such a manner as the board prescribes by rule. To obtain the waiver, an applicant shall file an application for examination no later than six months from June 7, 1984. An applicant who has filed for examination under this subsection shall be excluded from the licensure requirement until the date the results of the examination are made public, and may conduct the appropriate activities under RCW 18.59.030. [1984 c 9 § 8.]

18.59.080 Licenses—Issuance—Posting required. The director shall issue a license to a person who meets the licensing requirements of this chapter upon payment of the prescribed license fee. The license shall be posted in a conspicuous location at the person's work site. [1984 c 9 § 9.]

18.59.090 Renewal of licenses—Reinstatement of suspended or revoked licenses—Inactive status. (1) Licenses under this chapter shall be renewed at the time and in the manner determined by the director and with the payment of a renewal fee. The board may establish requirements for license renewal which provide evidence of continued competency. The director may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules which may include additional continuing education or examination requirements.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any applicable late fee.

(3) Any occupational therapist or occupational therapy assistant licensed under this chapter not practicing occupational therapy or providing services may place his or her license in an inactive status. The director may prescribe requirements for maintaining an inactive status and converting from an inactive or active status. [1984 c 9 § 10.]

18.59.100 Denial, refusal to renew, suspension, or revocation of a license—Probationary conditions—Grounds—Reinstatement. (1) The board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions if the licensee or applicant for a license has been guilty of conduct which has endangered the health, welfare, or safety of the public. Such conduct includes:

(a) Obtaining a license by means of fraud or misrepresentation or concealment of material facts;

(b) Being guilty of unprofessional conduct or gross incompetence as defined by the rules of the board, or violating the code of ethics adopted and published by the board, which shall require that an occupational therapist shall, after evaluating a patient and if the case is a medical one, refer the case to a physician for appropriate medical direction if such direction is lacking. Treatment by an occupational therapist of such a medical case may take place only upon the referral of a physician or podiatrist licensed to practice medicine in this state;

(c) Being convicted of a crime of moral turpitude or a felony which relates to the profession of occupational therapy;

(d) Violating an order or rule of the board; or

(e) Violating any provision of this chapter.

(2) Such denial, refusal to renew, suspension, revocation, or imposition of probationary conditions on a licensee may be ordered by the board in compliance with chapter 34.04 RCW. One year from the date of revocation of a license, application may be made to the board for reinstatement. The board has discretion to accept or reject an application for reinstatement and may, but is not required to, hold a hearing to consider the reinstatement. [1984 c 9 § 11.]

Violation of chapter 69.50 RCW, the uniform controlled substances act—Suspension of license: RCW 69.50.413.

18.59.110 Fees. The director shall prescribe and publish fees in amounts determined by the director as provided in *RCW 43.24.085 for the following purposes:

(1) Application for examination;

(2) Initial license fee;

(3) Renewal of license fee;

(4) Late renewal fee; and

(5) Limited permit fee.

The fees shall be set in such an amount as to reimburse the state, to the extent feasible, for the cost of the services rendered. [1984 c 9 § 12.]

**Reviser's note: RCW 43.24.085 was repealed by 1983 c 168 § 13. See RCW 43.24.086 for establishment of fees by the director of licensing.*

18.59.120 Board of occupational therapy practice established—Members—Terms—Meetings—

Compensation. (1) There is established a board of occupational therapy practice. The board shall consist of five members appointed by the governor, who may consider the persons who are recommended for appointment by occupational therapy associations of the state. The members of the board shall be residents of the state.

Four of the members shall have been engaged in rendering services to the public, teaching, or research in occupational therapy for at least five years immediately preceding their appointment. Three of these four board members shall be occupational therapists who shall at all times be holders of licenses for the practice of occupational therapy in the state, except for the initial members of the board, all of whom shall fulfill the requirements for licensure under this chapter. At least one member of the board shall be an occupational therapy assistant licensed to assist in the practice of occupational therapy, except for the initial member appointed to this position, who shall fulfill the requirements for licensure as a occupational therapy assistant under this chapter. The remaining member of the board shall be a member of the public with an interest in the rights of consumers of health services.

(2) The governor shall, within sixty days after June 7, 1984, appoint one member for a term of one year, two members for a term of two years, and two members for a term of three years. Appointments made thereafter shall be for three-year terms, but no person shall be appointed to serve more than two consecutive full terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the initial appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms prescribed by this section. The governor shall make appointments for vacancies in unexpired terms within ninety days after the vacancies occur.

(3) The board shall meet during the first month of each calendar year to select a chairman and for other purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two board members. A majority of members of the board constitutes a quorum for all purposes. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade, or administer examinations or, upon request of an applicant who fails an examination, to prepare a response indicating the reasons for the applicant's failure.

(4) Members of the board shall receive compensation in the amount of fifty dollars for each day's attendance at proper meetings of the committee. [1984 c 9 § 13.]

18.59.130 Board—Powers and duties—Rules—Hearings, notice. (1) The board shall administer, coordinate, and enforce this chapter, evaluate qualifications under this chapter, and provide for supervision of examinations of applicants for licensure under this chapter. The board may issue subpoenas, examine witnesses, and administer oaths and may investigate allegations of practices violating this chapter.

(2) The board shall adopt rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to

practice occupational therapy in this state in accordance with chapter 34.04 RCW.

(3) The board shall conduct such hearings and keep such records and minutes as are necessary to carry out its functions. The board shall provide at least thirty days' notice in writing to the appropriate persons of the times and places of all hearings authorized under this chapter in such a manner and at such times as it may determine by its rules. [1984 c 9 § 14.]

18.59.140 Option to adopt uniform disciplinary act. The board of occupational therapy practice may elect to adopt the uniform disciplinary act (chapter 18.130 RCW) in lieu of the disciplinary procedures outlined under this chapter. [1984 c 9 § 17.]

18.59.150 Board—Staff. The director shall provide such administrative and investigative staff as are necessary for the board to carry out its duties under this chapter. [1984 c 9 § 15.]

18.59.200 Violations—Penalties. A person who violates RCW 18.59.030 is guilty of a misdemeanor punishable by a fine of not more than five hundred dollars, or imprisonment in the county jail for a period not exceeding ninety days, or both such fine and imprisonment. The court may impose a civil fine of up to one thousand dollars for any violation of RCW 18.59.030. [1984 c 9 § 16.]

18.59.900 Short title. This chapter shall be known and may be cited as the occupational therapy practice act. [1984 c 9 § 1.]

18.59.905 Severability—1984 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. [1984 c 9 § 21.]

Chapter 18.64

PHARMACISTS

Sections	
18.64.001	State board of pharmacy—Creation—Membership—Oath—Vacancies.
18.64.003	State board of pharmacy—Meetings—Chairperson—Compensation and travel expenses. (Effective July 1, 1985.)
18.64.005	State board of pharmacy—Powers and duties.
18.64.011	Definitions.
18.64.043	Pharmacy license—Fee—Display—Declaration of ownership and location—Penalties.
18.64.044	Shopkeeper's registration—When required—Authority—Penalty.
18.64.045	Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties.
18.64.046	Wholesaler's license—Required—Authority of license—Penalty.
18.64.047	Itinerant vendor's or peddler's registration—Fee—Penalties.
18.64.050	Duplicate for lost or destroyed license or certificate—Certified documents—Fees.

- 18.64.080 Licensing of pharmacists—Registration of interns—Prerequisites—Examinations—Reciprocity—Fees—Renewal.
- 18.64.140 License—Annual renewal—Fee—Penalty—Display—Inactive license.
- 18.64.160 Refusal, suspension, and revocation of pharmacist's and intern's licenses—Grounds—Procedure.
- 18.64.246 Prescriptions—Labels—Cover or cap to meet safety standards.
- 18.64.255 Authorized practices.

Reviser's note—Sunset Act application: The state board of pharmacy is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.249. RCW 18.64.001, 18.64.003, 18.64.005, 18.64.007, and 18.64.009 are scheduled for future repeal under RCW 43.131.250.

18.64.001 State board of pharmacy—Creation—Membership—Oath—Vacancies. There shall be a state board of pharmacy consisting of seven members, to be appointed by the governor by and with the advice and consent of the senate. Five of the members shall be designated as pharmacist members and two of the members shall be designated a public member.

Each pharmacist member shall be a citizen of the United States and a resident of this state, and at the time of his appointment shall have been a duly registered pharmacist under the laws of this state for a period of at least five consecutive years immediately preceding his appointment and shall at all times during his incumbency continue to be a duly licensed pharmacist: *Provided*, That subject to the availability of qualified candidates the governor shall appoint pharmacist members representative of the areas of practice and geographically representative of the state of Washington.

The public member shall be a citizen of the United States and a resident of this state. The public member shall be appointed from the public at large, but shall not be affiliated with any aspect of pharmacy.

Members of the board shall hold office for a term of four years, and the terms shall be staggered so that the terms of office of not more than two members will expire simultaneously on the third Monday in January of each year.

No person who has been appointed to and served for two four year terms shall be eligible for appointment to the board.

Each member shall qualify by taking the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of his appointment and until his successor is appointed and qualified.

In case of the resignation or disqualification of a member, or a vacancy occurring from any cause, the governor shall appoint a successor for the unexpired term. [1984 c 153 § 1; 1981 c 338 § 17; 1973 1st ex.s. c 18 § 1; 1963 c 38 § 16; 1935 c 98 § 1; RRS § 10132. Formerly RCW 43.69.010.]

Sunset Act application: See note following chapter digest.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.64.003 State board of pharmacy—Meetings—Chairperson—Compensation and travel expenses. (Effective July 1, 1985.) Members of the board

shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. The board shall elect a chairperson and a vice chairperson from among its members. Each member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 43; 1979 c 90 § 1; 1975-'76 2nd ex.s. c 34 § 40; 1963 c 38 § 17; 1935 c 98 § 2; RRS § 10132-1. Formerly RCW 43.69.020.]

Sunset Act application: See note following chapter digest.

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.

18.64.005 State board of pharmacy—Powers and duties. The board shall:

(1) Regulate the practice of pharmacy and administer and enforce all laws placed under its jurisdiction;

(2) Prepare, grade, and administer or determine the nature of, and supervise the grading and administration of, examinations for applicants for pharmacists' licenses;

(3) Examine, inspect, and investigate all applicants for license as pharmacists or pharmacy interns and grant licenses to all applicants whom it shall judge to be properly qualified;

(4) Establish reasonable fees for licenses, examinations, and services for other agencies sufficient to cover the cost of the operations of the board. In cases where there are unanticipated demands for services the board may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the board from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(5) Employ an executive officer, inspectors, investigators, chemists, and other agents as necessary to assist it for any purpose which it may deem necessary;

(6) Investigate violations of the provisions of law or regulations under its jurisdiction, and cause prosecutions to be instituted in the courts;

(7) Make inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law;

(8) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(9) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(10) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, and/or any other laws or rules under its jurisdiction;

(11) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(12) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(13) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed in good faith as members of such board. Such immunity shall apply to employees of the board when acting at the direction of the board in the course of disciplinary proceedings;

(14) Establish an interdepartmental coordinating committee on drug misuse, diversion, and abuse, composed of one member from each caucus of the house of representatives and senate, the superintendent of public instruction, the director of licensing, the executive secretary of the criminal justice training commission, the chief of the Washington state patrol, the secretary of social and health services, director of the traffic safety commission, representatives of prescribing, delivering, and dispensing health care practitioner boards, the attorney general, the director of the department of labor and industries, a representative of local law enforcement agencies, and the executive officer of the board of pharmacy, or their designees. The committee shall meet at least twice annually at the call of the executive officer of the board of pharmacy who shall serve as chairperson of the committee. The committee shall advise the board of pharmacy in all matters related to its powers and duties delineated in subsections (15), (16), (17), (18) and (19) of this section, and shall report to the legislature each biennium on the results of its and the board's activity under those subsections;

(15) Provide for the coordination and exchange of information on state programs relating to drug misuse, diversion, and abuse, and act as a permanent liaison among the departments and agencies engaged in activities concerning the legal and illegal use of drugs;

(16) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(17) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse

of drugs for health care practitioners and licensed or certified health care facilities;

(18) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(19) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, the department of licensing, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the board. The board shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers. [1984 c 153 § 2; 1981 c 67 § 21; 1979 c 90 § 2; 1973 1st ex.s. c 18 § 2; 1963 c 38 § 18; 1935 c 98 § 3; RRS § 10132-2. Formerly RCW 43.69.030.]

Sunset Act application: See note following chapter digest.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

18.64.011 Definitions. Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Board" means the Washington state board of pharmacy.

(3) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(4) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

(5) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(6) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(9) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(12) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(13) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(16) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(17) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(18) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(19) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(20) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(21) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(22) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(23) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(24) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1984 c 153 § 3; 1982 c 182 § 29; 1979 c 90 § 5; 1963 c 38 § 1.]

Severability—1982 c 182: See RCW 19.02.901.

18.64.043 Pharmacy license—Fee—Display—Declaration of ownership and location—

Penalties. (1) The owner of each pharmacy shall pay an original license fee to be determined by the board, and annually thereafter, on or before a date to be determined by the board, a fee to be determined by the board, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the board may approve, for the period ending on a date to be determined by the board, and each such owner shall at the time of filing proof of payment of such fee as

provided in RCW 18.64.045 as now or hereafter amended, file with the state board of pharmacy on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein.

(2) It shall be the duty of the owner to immediately notify the board of any change of location and/or ownership and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(3) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(4) In the event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee. [1984 c 153 § 4; 1979 c 90 § 8; 1971 ex.s. c 201 § 2; 1963 c 38 § 3; 1949 c 153 § 4; 1935 c 98 § 8; 1909 c 213 § 12; Rem. Supp. 1949 § 10145. Formerly RCW 18.67.020.]

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.044 Shopkeeper's registration—When required—Authority—Penalty. (1) A shopkeeper registered or exempt from registration as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the board for registration, and on a date to be determined by the board thereafter the fee determined by the board for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the board under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. [1984 c 153 § 5; 1982 c 182 § 30; 1979 c 90 § 17.]

Severability—1982 c 182: See RCW 19.02.901.

Master license

delinquency fee—Rate—Disposition: RCW 19.02.085.

expiration date: RCW 19.02.090.

system

existing licenses or permits registered under, when: RCW 19.02.810.

generally: RCW 18.64.011(24).

to include additional licenses: RCW 19.02.110.

18.64.045 Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties. The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the board, and thereafter, on or before a date to be determined by the board, a fee to be determined by the board, for which the owner shall receive a license of location from the state board of pharmacy, which shall entitle the owner to manufacture drugs at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the state board of pharmacy, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the board of any change of location and/or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee. [1984 c 153 § 6; 1979 c 90 § 9; 1971 ex.s. c 201 § 3; 1963 c 38 § 4; 1949 c 153 § 5; Rem. Supp. 1949 § 10154-4. Formerly RCW 18.67.140.]

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.046 Wholesaler's license—Required—Authority of licensee—Penalty. The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the board, and thereafter, on or before a date to be determined by the board, a like fee to be determined by the board, for which the owner shall receive a license of location from the state board of pharmacy, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the board, and each such owner shall at the time of payment of such fee file with the state board of pharmacy, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the board of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such

place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee. [1984 c 153 § 7; 1979 c 90 § 18.]

18.64.047 Itinerant vendor's or peddler's registration—Fee—Penalties. Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the board on a date to be determined by the board. The state board of pharmacy may issue a registration to such vendor on an approved application made to the state board of pharmacy. Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. In event such registration fee remains unpaid for sixty days from date due, no renewal or new registration shall be issued except upon payment of the registration renewal fee and a penalty fee equal to the renewal fee. This registration shall not authorize the sale of legend drugs or controlled substances. [1984 c 153 § 8; 1979 c 90 § 10; 1971 ex.s. c 201 § 4; 1963 c 38 § 5; 1949 c 153 § 3; 1935 c 98 § 7; 1899 c 121 § 16; Rem. Supp. 1949 § 10141. Formerly RCW 18.60.010 through 18.60.030.]

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.050 Duplicate for lost or destroyed license or certificate—Certified documents—Fees. In the event that a license or certificate issued by the board of pharmacy is lost or destroyed, the person to whom it was issued may obtain a duplicate thereof upon furnishing proof of such fact satisfactory to the board of pharmacy and the payment of a fee determined by the board of pharmacy.

In the event any person desires any certified document to which he is entitled, he shall receive the same upon payment of a fee determined by the board of pharmacy. [1984 c 153 § 9; 1963 c 38 § 6; 1935 c 98 § 9; RRS § 10145-1. FORMER PART OF SECTION: 1935 c 98 § 10; RRS § 10145-2, now codified as RCW 18.64.055.]

18.64.080 Licensing of pharmacists—Registration of interns—Prerequisites—Examinations—Reciprocity—Fees—Renewal. (1) The state board of pharmacy may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the board may by regulation require, and who—

(a) Is at least eighteen years of age and is a citizen of the United States, an alien in an educational pharmacy graduate or residency program for the period of the program, or a resident alien;

(b) Has satisfied the board that he or she is of good moral and professional character, that he or she will carry out the duties and responsibilities required of a pharmacist, and that he or she is not unfit or unable to practice pharmacy by reason of the extent or manner of his or her proven use of alcoholic beverages, drugs, or controlled substances, or by reason of a proven physical or mental disability;

(c) Holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree granted by a school or college of pharmacy which is accredited by the board of pharmacy;

(d) Has completed or has otherwise met the internship requirements as set forth in board rules;

(e) Has satisfactorily passed the necessary examinations given by the board.

(2) The state board of pharmacy shall, at least once in every calendar year, offer an examination to all applicants for a pharmacist license who have completed their educational and internship requirements pursuant to rules promulgated by the board. The said examination shall be determined by the board. In case of failure at a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall not be eligible for further examination until he or she has satisfactorily completed additional preparation as directed and approved by the board. The applicant must pay the examination fee determined by the board for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this chapter, the board shall grant the applicant a license as a pharmacist and issue to him or her a certificate qualifying him or her to enter into the practice of pharmacy.

(3) Any person enrolled as a student of pharmacy in an accredited college may file with the state board of pharmacy an application for registration as a pharmacy intern in which said application he or she shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the board a fee to be determined by the board. All certificates issued to pharmacy interns shall be valid for a period to be determined by the board, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the board may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(4) To assure adequate practical instruction, pharmacy internship experience as required under this chapter shall be obtained after registration as a pharmacy intern by practice in any licensed pharmacy or other program meeting the requirements promulgated by regulation of the board, and shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(5) The board may, without examination other than one in the laws relating to the practice of pharmacy, license as a pharmacist any person who, at the time of

filing application therefor, is currently licensed as a pharmacist in any other state, territory, or possession of the United States: *Provided*, That the said person shall produce evidence satisfactory to the board of having had the required secondary and professional education and training and who was licensed as a pharmacist by examination in another state prior to June 13, 1963, shall be required to satisfy only the requirements which existed in this state at the time he or she became licensed in such other state: *Provided further*, That the state in which said person is licensed shall under similar conditions grant reciprocal licenses as pharmacist without examination to pharmacists duly licensed by examination in this state. Every application under this subsection shall be accompanied by a fee determined by the board.

(6) The board shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants. [1984 c 153 § 10; 1981 c 147 § 1; 1979 c 90 § 11; 1972 ex.s. c 9 § 1. Prior: 1971 ex.s. c 292 § 25; 1971 ex.s. c 201 § 5; 1963 c 38 § 7; 1931 c 56 § 1; 1927 c 253 § 1; 1923 c 180 § 3; RRS § 10126-3. Formerly RCW 18.64.010, part, 18.64.080 and 18.64.090, part.]

18.64.140 License—Annual renewal—Fee—Penalty—Display—Inactive license. Every licensed pharmacist who desires to practice pharmacy shall secure from the board a license, the fee for which shall be determined by the board. The renewal fee shall also be determined by the board. The date of renewal may be established by the board by regulation and the board may by regulation extend the duration of a licensing period for the purpose of staggering renewal periods. Such regulation may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of pharmacy board regulations. Pharmacists shall pay the license renewal fee and a penalty equal to the license renewal fee for the late renewal of their license more than sixty days after the renewal is due. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the board an inactive license. The initial license and renewal fees shall be determined by the board. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the board. [1984 c 153 § 11; 1979 c 90 § 12; 1971 ex.s. c 201 § 6; 1963 c 38 § 9; 1949 c 153 § 2; 1935 c 98 § 5; 1899 c 121 § 11; Rem. Supp. 1949 § 10136. Formerly RCW 18.64.140 and 18.64.150.]

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.160 Refusal, suspension, and revocation of pharmacist's and intern's licenses—Grounds—Procedure. The board of pharmacy shall have the power to refuse, suspend, or revoke the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) He or she has been convicted of a felony relating to his or her practice as a pharmacist;

(3) He or she has committed any act involving moral turpitude, dishonesty, or corruption, if the act committed directly relates to the pharmacist's fitness to practice pharmacy. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent pharmacist of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based;

(4) He or she is unfit to practice pharmacy because of habitual intemperance in the use of alcoholic beverages, drugs, controlled substances, or any other substance which impairs the performance of professional duties;

(5) He or she exhibits behavior which may be due to physical or mental impairment, which creates an undue risk of causing harm to him or herself or to other persons when acting as a licensed pharmacist or intern;

(6) He or she has incompetently or negligently practiced pharmacy, creating an unreasonable risk of harm to any individual;

(7) His or her legal authority to practice pharmacy, issued by any other properly constituted licensing authority of any other state, has been and is currently suspended or revoked;

(8) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the board upon the entry of the judgment, regardless of the pendency of an appeal;

(9) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, *chapter 18.81 RCW, Title 69 RCW, or rule or regulation of the board;

(10) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(11) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: *Provided, however*, That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices.

In any case of the refusal, suspension, or revocation of a license by said board of pharmacy under the provisions

of this chapter, said board shall proceed in accordance with chapter 34.04 RCW. [1984 c 153 § 12; 1979 c 90 § 13; 1963 c 38 § 10; 1909 c 213 § 10; RRS § 10143. Formerly RCW 18.64.160 through 18.64.190.]

*Reviser's note: Chapter 18.81 RCW was repealed by 1984 c 153 § 22.

18.64.246 Prescriptions—Labels—Cover or cap to meet safety standards. To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing the name and address of the pharmacy wherein the prescription is compounded, the corresponding serial number of the prescription, the name of the prescriber, his directions, the name of the medicine and the strength per unit dose, name of patient, date, the expiration date, and initials of the licensed pharmacist who has compounded the prescription, and the security of the cover or cap on every bottle or jar shall meet safety standards promulgated by the state board of pharmacy: *Provided*, That at the physician's request, the name and dosage of the drug need not be shown. If the prescription is for a combination drug product, the generic names of the drugs combined or the trade name used by the manufacturer or distributor for the product shall be noted on the label. This section shall not apply to the dispensing of medicines to in-patients in hospitals. [1984 c 153 § 13; 1971 ex.s. c 99 § 1; 1939 c 28 § 2; RRS § 6154-2. Formerly RCW 18.67.080.]

18.64.255 Authorized practices. Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: *Provided*, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salesmen from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the state board of pharmacy, if such shopkeeper, itinerant vendor, salesman, or peddler shall have obtained a registration. [1984 c 153 § 14; 1981 c 147 § 3; 1979 c 90 § 19.]

Chapter 18.71 PHYSICIANS

Sections

- 18.71.015 Washington state board of medical examiners. (Effective July 1, 1985.)
18.71.018 Option to adopt uniform disciplinary act.

Health care assistants: Chapter 18.135 RCW.

18.71.015 Washington state board of medical examiners. (Effective July 1, 1985.) There is hereby created a board of medical examiners consisting of six individuals licensed to practice medicine in the state of Washington and one individual who is not a physician, to be known as the Washington state board of medical examiners.

The board shall be appointed by the governor. The members of the first board shall be appointed within thirty days after March 21, 1961, to serve the following terms: One member for one year, one member for two years, one member for three years, one member for four years, one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified.

Each member of the board shall be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The board shall meet as soon as practicable after appointment and elect a chairman and a secretary from its members. Meetings shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

It shall require the affirmative vote of a majority of the members of the board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize or deny the issuance of any certificate.

Each member of the board shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of licensing.

Any member of the board may be removed by the governor for neglect of duty, misconduct, or malfeasance or misfeasance in office.

Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor. [1984 c 287 § 44; 1979 c 158 § 52; 1975-'76 2nd ex.s. c 34 § 41; 1975 1st ex.s. c 171 § 2; 1961 c 284 § 2.]

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.

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.71.018 Option to adopt uniform disciplinary act. The board of medical examiners, in consultation with professional associations, may elect to adopt by rule the

uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 41.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.72

MEDICAL DISCIPLINARY BOARD

Sections

- 18.72.100 Compensation and reimbursement of members. (Effective July 1, 1985.)
18.72.153 Option to adopt uniform disciplinary act.

18.72.100 Compensation and reimbursement of members. (Effective July 1, 1985.) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be repaid their travel expenses while engaged in business of the board in accordance with RCW 43.03.050 and 43.03.060. Such compensation and reimbursement for expenses shall be paid out of the general fund on vouchers approved by the director of licensing. [1984 c 287 § 45; 1979 ex.s. c 111 § 3; 1979 c 158 § 59; 1975-'76 2nd ex.s. c 34 § 42; 1955 c 202 § 10.]

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

Severability—1979 ex.s. c 111: See note following RCW 18.72.030.

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

18.72.153 Option to adopt uniform disciplinary act. The medical disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 42.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.73

EMERGENCY MEDICAL CARE AND TRANSPORTATION SERVICES

Sections

- 18.73.040 Emergency medical services committee—Created—Membership—Terms—Officers—Meetings—Travel expenses.

18.73.040 Emergency medical services committee—Created—Membership—Terms—Officers—Meetings—Travel expenses. There is created an emergency medical services committee of nine members to be appointed by the governor. Members of the committee shall be persons knowledgeable in specific and general aspects of emergency medical services. Members shall be appointed for a period of three years; except, that the first appointees shall serve for terms as follows: Five for three years, two for two years, and two for one year. Further, the terms of those members representing the same field shall not expire at the same time.

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The committee shall elect a chairman and a vice chairman whose terms of office shall be for one year each. The chairman shall be ineligible for reelection after serving two consecutive terms.

The committee shall meet on call by the governor, the secretary or the chairman.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

All appointive members of the committee, in the performance of their duties, may be entitled to receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1984 c 279 § 55; 1981 c 338 § 13; 1979 ex.s. c 261 § 2; 1975-'76 2nd ex.s. c 34 § 43; 1973 1st ex.s. c 208 § 4.]

Reviser's note—**Sunset Act application:** The emergency medical services committee is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.303. RCW 18.73.040 and 18.73.050 are scheduled for future repeal under RCW 43.131.304.

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.

Chapter 18.74

PHYSICAL THERAPY

Sections

- 18.74.020 Board created—Members—Staff assistance—Compensation and travel expenses. (Effective July 1, 1985.)
18.74.028 Option to adopt uniform disciplinary act.

18.74.020 Board created—Members—Staff assistance—Compensation and travel expenses. (Effective July 1, 1985.) The state board of physical therapy is hereby created. The board shall consist of five members who shall be appointed by the governor. Of the initial appointments, two shall be appointed for a term of two years, two for a term of three years, and one for a term of four years. Thereafter, all appointments shall be for terms of four years. Four members of the board shall be physical therapists licensed under this chapter and residing in this state, shall have not less than five years' experience in the practice of physical therapy, and shall be actively engaged in practice within two years of appointment. The fifth member shall be appointed from the public at large, shall have an interest in the rights of consumers of health services, and shall not be or have been a member of any other licensing board, a licensee of any health occupation board, an employee of any health facility nor derive his primary livelihood from the provision of health services at any level of responsibility. In the event that a member of the board for any reason cannot complete his term of office, another appointment shall be made by the governor in accordance with the procedure stated above to fill the remainder of the term. No member may serve for more than two successive four-year terms.

The director of licensing shall furnish such secretarial, clerical and other assistance as the board may require. Each member of the board shall, in addition to travel

expenses in accordance with RCW 43.03.050 and 43.03-.060, be compensated in accordance with RCW 43.03.240. [1984 c 287 § 46; 1983 c 116 § 3; 1979 c 158 § 62; 1975-'76 2nd ex.s. c 34 § 44; 1949 c 239 § 2; Rem. Supp. 1949 § 10163-2.]

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

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

Director of licensing or director's designee ex officio member of health professional licensure and disciplinary boards: RCW 43.24.015.

18.74.028 Option to adopt uniform disciplinary act.

The board of physical therapy may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 43.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.78 PRACTICAL NURSES

Sections

- 18.78.040 Compensation and travel expenses of board members—Officers. (Effective July 1, 1985.)
18.78.053 Option to adopt uniform disciplinary act.

18.78.040 Compensation and travel expenses of board members—Officers. (Effective July 1, 1985.) Each board member shall be compensated in accordance with RCW 43.03.240 and shall be paid travel expenses while away from home in accordance with RCW 43.03.050 and 43.03.060. The members of the board shall appoint a chairman and a secretary from among its entire members, who shall serve until his or her successor is appointed by the board. [1984 c 287 § 47; 1983 c 55 § 5; 1975-'76 2nd ex.s. c 34 § 45; 1967 c 188 § 4; 1949 c 222 § 4; Rem. Supp. 1949 § 10173-30.]

Sunset Act application: See note following chapter 18.52A RCW digest.

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.

Executive secretary of board: RCW 18.78.100.

18.78.053 Option to adopt uniform disciplinary act.

The board of practical nursing may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 44.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.81 PROPHYLACTIC VENDORS

Sections

- 18.81.010 through 18.81.900 Repealed.

18.81.010 through 18.81.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.83 PSYCHOLOGISTS

Sections

- 18.83.010 Definitions.
18.83.025 Director—Authority.
18.83.030 Repealed.
18.83.035 Examining board—Composition—Terms—Chairperson.
18.83.040 Repealed.
18.83.045 Examining board—Meetings—Quorum.
18.83.050 Examining board—Powers and duties.
18.83.051 Examining board—Compensation and travel expenses. (Effective July 1, 1985).
18.83.053 Option to adopt uniform disciplinary act.
18.83.060 Application for license—Fee.
18.83.070 Applicants—Qualifications—Examination.
18.83.072 Examinations—Where held—Applicant—board conference—Reexamination.
18.83.082 Temporary permits.
18.83.090 Continuing education requirements—License renewal.
18.83.120 Unethical practice defined.
18.83.130 Denial, suspension, revocation of license.
18.83.135 Disciplinary committee—Immunity—Powers and duties.
18.83.140 Repealed.
18.83.145 Disciplinary committee—Action after hearing.
18.83.150 Repealed.
18.83.155 Disciplinary committee—Notice of action.
18.83.160 Repealed.
18.83.161 Costs of enforcing disciplinary actions.
18.83.165 Appeal.
18.83.170 Reciprocity.

Reviser's note: The powers and duties of the board of psychologist examiners are scheduled for termination under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.323. The board of psychologist examiners was redesignated the examining board of psychology by 1984 c 279 § 75 [RCW 18.83.010].

18.83.010 Definitions. When used in this chapter:

(1) The "practice of psychology" means the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of evaluation, group relations and behavior adjustment, including but not limited to: (a) counseling and guidance; (b) use of psychotherapeutic techniques with clients who have adjustment problems in the family, at school, at work or in interpersonal relationships; (c) measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes and skills.

This definition does not include the teaching of principles of psychology for accredited educational institutions, or the conduct of research in problems of human or animal behavior.

Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW.

(2) "Director" means director of licensing.

(3) "Board" means the examining board of psychology.

(4) "Committee" means the disciplinary committee established by the board.

(5) "Department" means the department of licensing. [1984 c 279 § 75; 1979 c 158 § 67; 1965 c 70 § 1; 1955 c 305 § 1.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.025 Director—Authority. The director has the following authority:

(1) To hire such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation, hearing, or proceeding, and to reimburse the individuals for services provided. [1984 c 279 § 87.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.83.035 Examining board—Composition—Terms—Chairperson. There is created the examining board of psychology which shall examine the qualifications of applicants for licensing. The board shall consist of seven psychologists and two public members, all appointed by the governor. The public members shall not be and have never been psychologists or in training to be psychologists; they may not have any household member who is a psychologist or in training to be a psychologist; they may not participate or ever have participated in a commercial or professional field related to psychology, nor have a household member who has so participated; and they may not have had within two years before appointment a substantial financial interest in a person regulated by the board. Each psychologist member of the board shall be a citizen of the United States who has actively practiced psychology in the state of Washington for at least three years immediately preceding appointment and who is licensed under this chapter. Each member of the board shall serve for a term of five years. The members of the first board appointed after June 7, 1984, shall determine by lot psychologist members to serve for five, four, and three year terms to stagger the terms, with members of the board existing on June 7, 1984, serving the shorter terms. Public members of the first board appointed after June 7, 1984, shall choose one to serve for five years and one to serve for four years. Upon the death, resignation, or removal of a member, the governor shall appoint a successor to serve for the unexpired term. The board shall elect one of its members to serve as chairperson. [1984 c 279 § 76.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.83.045 Examining board—Meetings—Quorum. The board shall meet at least once each year and at such other times as the board deems appropriate to properly discharge its duties. All meetings shall be held in Olympia, Washington, or such other places as may be

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designated by the director. Five members of the board shall constitute a quorum, except that oral examinations may be conducted with only three psychologist members. [1984 c 279 § 77.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.050 Examining board—Powers and duties.

(1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing hereunder and shall forward to the director the names of applicants so eligible.

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examinations and shall require both written and oral examinations of each applicant, except as provided in RCW 18.83.170. The board may allow applicants to take the written examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

(5) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

(6) The board shall create a disciplinary committee within the board for the purposes of hearing, examining, and ruling on complaints and evidence of unethical conduct or practices brought by the public, other psychologists, organizations, corporations, public or private agencies, or officers, agencies, or instrumentalities of state, county, or local governments. [1984 c 279 § 78; 1965 c 70 § 5; 1955 c 305 § 5.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.051 Examining board—Compensation and travel expenses. (Effective July 1, 1985). Each member of the board shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 48; 1983 c 168 § 10; 1975-'76 2nd ex.s. c 34 § 48; 1969 ex.s. c 199 § 19; 1965 c 70 § 21.]

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

Severability—1983 c 168: See RCW 18.120.910.

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

18.83.053 Option to adopt uniform disciplinary act. The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of

the disciplinary provisions outlined under this chapter. [1984 c 279 § 45.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.060 Application for license—Fee. Each applicant for a license shall file with the director an application duly verified, in such form and setting forth such information as the board shall prescribe. An application fee determined by the director as provided in RCW 43.24.086 shall accompany each application. [1984 c 279 § 79; 1975 1st ex.s. c 30 § 72; 1965 c 70 § 6; 1955 c 305 § 6.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.070 Applicants—Qualifications—Examination. An applicant for a license as "psychologist" must submit proof to the board that:

(1) The applicant is of good moral character.

(2) The applicant holds a doctoral degree from a regionally accredited institution, obtained from an integrated program of graduate study in psychology as defined by rules of the board.

(3) The applicant has had no fewer than two years of supervised experience, at least one of which shall have been obtained subsequent to the granting of the doctoral degree. The board shall adopt rules defining the circumstances under which supervised experience shall qualify the candidate for licensure.

(4) The applicant has passed the written and oral examinations prescribed by the board.

Any person holding a valid license to practice psychology in the state of Washington on June 7, 1984, shall be considered licensed under this chapter. [1984 c 279 § 80; 1965 c 70 § 7; 1955 c 305 § 7.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.072 Examinations—Where held—Applicant-board conference—Reexamination. (1) Examination of applicants shall be held in Olympia, Washington, or at such other place as designated by the director, at least annually at such times as the board may determine.

(2) Any applicant shall have the right to discuss with the board his or her performance on the examination.

(3) Any applicant who fails to make a passing grade on the examination may be allowed to retake the examination. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

(4) The reexamination fee shall be the same as the application fee set forth in RCW 18.83.060. [1984 c 279 § 81; 1971 ex.s. c 266 § 15; 1965 c 70 § 20.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.082 Temporary permits. (1) A valid receipt for an initial application for license hereunder, provided the applicant meets the requirements of RCW 18.83.070 (1), (2), and (3), shall constitute a temporary permit to practice psychology until the board completes action on the application. The board must complete action within one year of the date such receipt is issued.

(2) A person, not licensed in this state, who wishes to perform practices under the provisions of this chapter for a period not to exceed ninety days within a calendar year, must petition the board for a temporary permit to perform such practices. If the person is licensed or certified in another state deemed by the board to have standards equivalent to this chapter, a permit may be issued. No fee shall be charged for such temporary permit. [1984 c 279 § 82; 1975 1st ex.s. c 30 § 73; 1965 c 70 § 23.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.090 Continuing education requirements—License renewal. The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal. Each licensed psychologist shall pay to the health professions account, created in RCW 43.24.072, annually, at such time as determined by the board, an annual license renewal fee determined by the director under RCW 43.24.086. Upon receipt of the fee, the director shall issue a certificate of renewal in such form as the director shall determine. [1984 c 279 § 83; 1977 c 58 § 1; 1975 1st ex.s. c 30 § 74; 1971 ex.s. c 266 § 16; 1965 c 70 § 9; 1955 c 305 § 9.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.120 Unethical practice defined. Within the meaning of this chapter unethical practice of psychology shall include any act or practice which violates the codes of ethics established by the board. In addition, the following conduct, acts, or conditions constitute the unethical practice of psychology for any licensee or applicant subject to this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this subsection abrogates rights guaranteed under chapter 9.96A RCW.

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof.

(3) Advertising in a manner which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public health, safety, or welfare.

(4) Incompetency or negligence in the practice of psychology which creates an unreasonable risk of physical or mental harm or serious financial loss to the consumer.

(5) Practicing psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction.

(6) Violation of any state statute or administrative code specifically governing the practice of psychology.

(7) Failure to cooperate with the committee by:

(a) Not furnishing any papers or documents requested by the committee;

(b) Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the committee;

(c) Not appearing before the committee at the time and place designated; or

(d) Not properly responding to subpoenas issued by the committee.

(8) Failure to comply with an order issued by the committee or an assurance of discontinuance entered into with the committee.

(9) Aiding or abetting an unlicensed person to practice when a license is required.

(10) Gross, wilful, or continued overcharging for professional services.

(11) Wilful or repeated violations of rules established by any health officer of the state or a political subdivision thereof.

(12) Practice beyond the scope of practice as defined by law.

(13) Misrepresentations or fraud in any aspect of the conduct of the profession.

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's safety is at risk.

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health.

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service.

(17) Conviction of any gross misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW.

(18) Physically abusing or having sexual contact with a patient or client.

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the committee.

(20) The wilful betrayal of a professional secret.

(21) Violation of chapter 19.68 RCW. [1984 c 279 § 84; 1965 c 70 § 12; 1955 c 305 § 13.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.130 Denial, suspension, revocation of license.

The board shall refuse to grant a license to any applicant and shall revoke or suspend the license of any psychologist, or place other restrictions on that psychologist's practice of psychology, for the following reasons:

(1) Commission of any act involving moral turpitude, as defined by the board by rule, dishonesty, or corruption, which relates directly to a person's fitness to practice psychology, whether that act constitutes a crime or not; and if the act constitutes a crime, conviction thereof in criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction, the judgment and sentence shall be conclusive evidence at any ensuing disciplinary hearing of guilt of the psychologist of the crime described in the indictment or information and of the violation of the statute upon which it is based.

(2) Failing to maintain the confidentiality of information under RCW 18.83.110.

(3) Violations of the ethical code developed by the board under RCW 18.83.050 and 18.83.120.

(4) Failing to inform prospective research subjects or their authorized representatives of the possible serious effects of participation in research; and failing to undertake reasonable efforts to remove possible harmful effects of participation.

(5) Practicing in an area of psychology for which the person is clearly untrained or incompetent.

(6) Being negligent in the practice of psychology.

(7) Failing to exercise appropriate supervision over persons who practice under the supervision of a psychologist.

(8) Using fraud or deceit in the procurement of the psychology license, or knowingly assisting another in the procurement of such a license through fraud or deceit.

(9) Engaging in the practice of psychology while the person's ability to perform professional services is significantly impaired by alcohol, drugs, illness, or other dysfunctions.

(10) Engaging in the practice of psychology when the person's psychology license has been suspended or revoked by competent authority in any other state, federal, or foreign jurisdiction when the reason for that suspension or revocation is a violation of this chapter or rules adopted by the board and its disciplinary committee.

(11) Unprofessional conduct as defined in chapter 19.68 RCW.

(12) Wilful violation of RCW 18.83.120 or *section 79 of this 1984 act or wilful disregard of the subpoena or notice of the disciplinary committee.

(13) Failure to abide by the terms of corrective actions directed under **RCW 18.83.150.

(14) Violation of any board rule fixing a standard of professional conduct. [1984 c 279 § 85; 1965 c 70 § 13; 1955 c 305 § 12.]

Reviser's note: *(1) As a result of renumbering sections when Substitute House Bill No. 1178 [1984 c 279] was enrolled, the reference to section 79 [RCW 18.83.060] is apparently erroneous. Section 88, codified as RCW 18.83.145 was apparently intended.

** (2) RCW 18.83.150 was repealed by 1984 c 279 § 93.

Severability—1984 c 279: See RCW 18.130.901.

Violation of chapter 69.50 RCW, the uniform controlled substances act—Suspension of license: RCW 69.50.413.

18.83.135 Disciplinary committee—Immunity—Powers and duties. The disciplinary committee shall meet at least once each year or upon the call of the chairperson at such time and place as the chairperson designates. A quorum for transaction of any business shall consist of five members, including at least one public member.

The members of the disciplinary committee shall be immune from suit in any action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the committee.

The committee shall have the following authority:

(1) To order investigation of all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(2) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(3) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(4) To compel attendance of witnesses at hearings;

(5) In the course of investigating a complaint of unprofessional conduct, to conduct practice reviews;

(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the committee;

(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings; however, the disciplining authority shall make the final decision regarding disposition of the license;

(8) To use consultants or individual members of the board to assist in the direction of investigations and issuance of statements of charges; however, the member of the board shall not subsequently participate in the hearing of the case;

(9) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(10) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the committee;

(11) To grant or deny license application, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(12) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission.

Violation of an assurance under this subsection is grounds for disciplinary action;

(13) To maintain records of all activities, and to publish and distribute to all psychologists at least once each year abstracts of significant activities of the committee;

(14) To obtain the written consent of the complaining client or patient or their legal representative, or of any person who may be affected by the complaint, in order to obtain information which otherwise might be confidential or privileged;

(15) To report, when appropriate, statements of complaints and disposition of cases processed by the committee to:

(a) The person or agency initiating the action;

(b) Appropriate national and state organizations which represent the profession of psychology, including counterpart licensing boards in other states; and

(c) The public.

This subsection does not require the reporting of any information which is exempt from public disclosure pursuant to chapter 42.17 RCW or is otherwise privileged or confidential.

The committee has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.04 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [1984 c 279 § 86.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.140 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.83.145 Disciplinary committee—Action after hearing. The disciplinary committee may take any of the following actions as a result of investigation of a complaint and the ensuing hearing:

(1) Revocation of the license.

(2) Suspension of the license for a fixed term.

(3) Restriction or limitation upon the licensee's practice.

(4) Establishment of a requirement that a licensee complete a specified program of continuing education or reeducation.

(5) Monitoring of the licensee's practice by a licensed psychologist or other person or organization appointed by the committee.

(6) Censure or reprimand.

(7) Compliance with conditions of probation for a designated period of time.

(8) Any combination of the foregoing, which may be partly or totally stayed.

(9) Dismissal of the complaint and exoneration of the licensee.

(10) Payment of a fine for each violation of this chapter, not to exceed one thousand dollars per violation. Funds received shall be placed in the health professions account.

(11) Denial of the license request.

(12) Corrective action by the license holder.

(13) Refund of fees charged to the consumer by the license holder. [1984 c 279 § 88.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.83.155 Disciplinary committee—Notice of action. The committee shall report to appropriate national and state organizations which represent the profession of psychology any action taken pursuant to an investigation or hearing that finds a licensee has committed unprofessional or unethical conduct.

In the event of an order for revocation or suspension of a psychology license, or for restriction or limitation of a licensee's practice, the committee shall report such action to the public. This public notification shall be suspended for thirty days from date of filing of any appeal.

If the committee finds that a complaint against a licensee is not substantiated, or if there is no finding of unprofessional or unethical conduct, resulting in dismissal of the complaint and exoneration of the licensee, the committee shall attempt to relieve the licensee of any possible odium that may attach by reason of the complaint by such public exoneration as is necessary. [1984 c 279 § 89.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.83.161 Costs of enforcing disciplinary actions. Any portion or all of the costs associated with providing a psychologist or other person or organization for monitoring the conditions of probation or of the licensee's compliance with the terms of the committee's decision and order may be assessed by the committee against the licensee, in which event payment of such costs and expenses shall become a legal obligation of the licensee to the department of licensing. [1984 c 279 § 90.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.165 Appeal. Orders of the board may be appealed as provided in chapter 34.04 RCW. An order, if appealed, shall not be stayed pending the appeal unless the committee or the court to which the appeal is taken enters an order staying the order of the committee, which stay shall provide terms necessary to protect the public. [1984 c 279 § 91.]

Severability—1984 c 279: See RCW 18.130.901.

18.83.170 Reciprocity. Upon application accompanied by a fee determined by the director as provided in RCW 43.24.086, the board may grant a license, without written examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that the applicant:

(1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

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(2) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(3) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology. [1984 c 279 § 92; 1975 1st ex.s. c 30 § 76; 1965 c 70 § 17; 1955 c 305 § 17.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.85

REAL ESTATE BROKERS AND SALESMEN

Sections

18.85.080 Real estate commission—Compensation and travel expenses. (Effective July 1, 1985.)

18.85.080 Real estate commission—Compensation and travel expenses. (Effective July 1, 1985.) The six board members of the commission shall be compensated in accordance with RCW 43.03.240, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 when they shall be called into session by the director or when presiding at examinations for applicants for licenses or when otherwise engaged in the business of the commission. [1984 c 287 § 49; 1975-'76 2nd ex.s. c 34 § 49; 1953 c 235 § 4; 1951 c 222 § 6; 1941 c 252 § 14; Rem. Supp. 1941 § 8340-37.]

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.

Chapter 18.88

REGISTERED NURSES

Sections

18.88.080 Powers and duties of board—Compensation and travel expenses of members. (Effective July 1, 1985.)

18.88.085 Option to adopt uniform disciplinary act.

Health care assistants: Chapter 18.135 RCW.

18.88.080 Powers and duties of board—Compensation and travel expenses of members. (Effective July 1, 1985.) The board may adopt such rules and regulations not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of this chapter. The board shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensure under this chapter. It shall keep a record of all its proceedings and make such reports to the governor as may be required. The board shall define by regulation what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing professions. The board may adopt regulations in response to questions put to it by professional health associations, nursing practitioners,

and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

The board shall approve such schools of nursing as meet the requirements of this chapter and the board, and the board shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The board shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years nonpracticing status. The board shall establish criteria for licensure by endorsement. The board shall examine all applications for registration under this chapter, and shall certify to the director for licensing duly qualified applicants.

The department shall furnish to the board such secretarial, clerical and other assistance as may be necessary to effectively administer the provisions of this chapter. Each member of the board shall, in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 while away from home, be compensated in accordance with RCW 43.03.240. [1984 c 287 § 50; 1977 c 75 § 12; 1975-'76 2nd ex.s. c 34 § 50; 1973 c 133 § 7; 1961 c 288 § 4; 1949 c 202 § 8; Rem. Supp. 1949 § 10173-7. Prior: 1933 c 180 § 1; 1923 c 150 § 1; 1913 c 81 § 1; 1909 c 41 § 3.]

Sunset Act application: See note following chapter 18.52A RCW digest.

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.

Severability—1973 c 133: See note following RCW 18.88.010.

18.88.085 Option to adopt uniform disciplinary act. The board of nursing may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 46.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.92

VETERINARY MEDICINE, SURGERY AND DENTISTRY

Sections

- 18.92.040 Compensation and travel expenses of board members. (Effective July 1, 1985.)
18.92.045 Option to adopt uniform disciplinary act.

18.92.040 Compensation and travel expenses of board members. (Effective July 1, 1985.) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. No expense may be incurred by members of the board except in connection with board meetings without prior approval of the director. [1984 c 287 § 51; 1983 c 102 § 4; 1975-'76 2nd ex.s. c 34 § 53; 1974 ex.s. c 44 § 3; 1967

ex.s. c 50 § 4; 1959 c 92 § 5; 1941 c 71 § 5; 1913 c 79 § 2; 1907 c 124 § 13; Rem. Supp. 1941 § 10040-5.]

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

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

18.92.045 Option to adopt uniform disciplinary act. The veterinary board of governors may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 47.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.96

LANDSCAPE ARCHITECTS

Sections

- 18.96.050 Board of registration for landscape architects—Terms of office—Removal—Compensation and travel expenses. (Effective July 1, 1985.)

18.96.050 Board of registration for landscape architects—Terms of office—Removal—Compensation and travel expenses. (Effective July 1, 1985.) The members of the first board shall serve for the following terms:

One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years from the date of appointment or until successors are duly appointed and qualified. Every member of the board shall receive a certificate of his appointment from the governor, and before beginning his term of office shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of five years, or until his successor has been appointed and qualified: *Provided*, That no member shall serve more than ten consecutive years.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term. In carrying out the provisions of this chapter, the members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses according to the provisions of RCW 43.03.050 and 43.03.060, such funds to be provided from the landscape architects' account in the state general fund. [1984 c 287 § 52; 1975-'76 2nd ex.s. c 34 § 54; 1969 ex.s. c 158 § 5.]

Sunset Act application: See note following chapter digest.

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.

Chapter 18.100

PROFESSIONAL SERVICE CORPORATIONS

Sections

18.100.080 Engaging in other business prohibited—Investments. (Effective January 1, 1985.)

18.100.080 Engaging in other business prohibited—Investments. (Effective January 1, 1985.) No professional service corporation organized under this chapter shall engage in any business other than the rendering of the professional services for which it was incorporated or service as a trustee as authorized by RCW 11.36.021 or as a personal representative as authorized by RCW 11.36.010: *Provided*, That nothing in this chapter or in any other provisions of existing law applicable to corporations shall be interpreted to prohibit such corporation from investing its funds in real estate, personal property, mortgages, stocks, bonds, insurance, or any other type of investments. [1984 c 149 § 170; 1969 c 122 § 8.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 18.108

MESSAGE OPERATORS AND BUSINESSES

Sections

18.108.020 State message examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation. (Effective until July 1, 1985.)

18.108.020 State message examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation and travel expenses. (Effective July 1, 1985.)

18.108.075 Option to adopt uniform disciplinary act.

18.108.020 State message examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation. (Effective until July 1, 1985.) The state message examining board is hereby created. The board shall consist of three members who shall be appointed by the governor for a term of three years each. Each member shall be a resident of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be actively engaged in the practice of massage during their incumbency. Within thirty days after September 8, 1975, three members shall be appointed by the governor to serve one, two, and three years respectively.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a member cannot complete his term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms and shall qualify and receive a license pursuant to section 7,

chapter 280, Laws of 1975 1st ex. sess. within ninety days of their appointment.

Subject to the approval of the director, the board shall have the power to promulgate rules and regulations not inconsistent with the law and which may be necessary for the performance of its duties. It shall be the duty of the board to pass upon the qualifications of applicants for licenses, prepare the necessary examination questions and practical demonstrations, conduct examinations from time to time in such places as the director designates, and to determine the applicants who successfully passed the examination, and in turn notify the director of such determinations.

Each member of the board shall receive as compensation twenty-five dollars for each day's attendance at meetings of the board. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03-.060 as now existing or hereafter amended. [1984 c 279 § 56; 1975-'76 2nd ex.s. c 34 § 57; 1975 1st ex.s. c 280 § 2.]

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.

18.108.020 State message examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation and travel expenses. (Effective July 1, 1985.) The state message examining board is hereby created. The board shall consist of three members who shall be appointed by the governor for a term of three years each. Members shall be residents of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be actively engaged in the practice of massage during their incumbency. Within thirty days after September 8, 1975, three members shall be appointed by the governor to serve one, two, and three years respectively.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a member cannot complete his term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms and shall qualify and receive a license pursuant to this chapter within ninety days of their appointment.

Subject to the approval of the director, the board shall have the power to promulgate rules and regulations not inconsistent with the law and which may be necessary for the performance of its duties. It shall be the duty of the board to pass upon the qualifications of applicants for licenses, prepare the necessary examination questions and practical demonstrations, conduct examinations from time to time in such places as the director designates, and to determine the applicants who successfully passed the examination, and in turn notify the director of such determinations.

Each member of the board shall be compensated in accordance with RCW 43.03.240. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060. [1984 c 287 § 53; 1984 c 279 § 56; 1975-'76 2nd ex.s. c 34 § 57; 1975 1st ex.s. c 280 § 2.]

Reviser's note: This section was amended by 1984 c 287 § 53, effective July 1, 1985, and by 1984 c 279 § 56, 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.

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.

18.108.075 Option to adopt uniform disciplinary act.

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.130 RCW, in lieu of the disciplinary provisions outlined under this chapter. [1984 c 279 § 48.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.120

REGULATION OF HEALTH PROFESSIONS

Sections

18.120.020	Definitions.
18.120.040	Applicants for regulation—Written reports—Recommendations by state health coordinating council.
18.120.050	Continuing education requirements—Legislative proposals—Evidence of effectiveness.

18.120.020 Definitions. The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26

RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; drugless healing under chapter 18.36 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.88 RCW; occupational therapists licensed pursuant to chapter 18.59 RCW; veterinarians and animal technicians under chapter 18.92 RCW; and massage practitioners under chapter 18.108 RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License", "licensing", and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, non-transferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency. [1984 c 279 § 57; 1984 c 9 § 18; 1983 c 168 § 2.]

Reviser's note: This section was amended by 1984 c 9 § 18 and by 1984 c 279 § 57, 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—1984 c 279: See RCW 18.130.901.

Severability—1984 c 9: See RCW 18.59.905.

18.120.040 Applicants for regulation—Written reports—Recommendations by state health coordinating council. Applicant groups shall submit a written report explaining the factors enumerated in RCW 18.120.030 to the legislative committees of reference, copies of which shall be sent to the state health coordinating council and the department of licensing for review and comment. The state health coordinating council, in addition to the duties specified in RCW 70.38.065, shall make recommendations based on the report submitted by applicant groups to the extent requested by the legislative committees. [1984 c 279 § 59.]

Severability—1984 c 279: See RCW 18.130.901.

18.120.050 Continuing education requirements—Legislative proposals—Evidence of effectiveness. Requirements for licensees to engage in continuing education as a condition of continued licensure has not been proven to be an effective method of guaranteeing or improving the competence of licensees or the quality of care received by the consumer. The legislature has serious reservations concerning the appropriateness of mandated continuing education. Any legislative proposal which contains a continuing education requirement should be accompanied by evidence that such a requirement has been proven effective for the profession addressed in the legislation. [1984 c 279 § 58.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 18.130

UNIFORM DISCIPLINARY ACT—HEALTH AND HEALTH-RELATED PROFESSIONS

Sections

18.130.010	Intent.
18.130.020	Definitions.
18.130.030	Chapter may be adopted.
18.130.040	Application of chapter to certain professions—Authority of director—Authority to grant or deny licenses.
18.130.050	Authority of disciplining authority.
18.130.060	Additional authority of director.

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18.130.070	Disciplining authority may adopt rules requiring reports—Court orders—Immunity from liability—Licensees required to report.
18.130.080	Unprofessional conduct by license holder or applicant—Complaint—Investigation.
18.130.090	Statement of charge—Request for hearing—Notice.
18.130.100	Hearings—Contested cases under chapter 34.04 RCW.
18.130.110	Findings of fact—Order—Report.
18.130.120	License denied, revoked, or suspended—Issuance prohibited—Exception.
18.130.130	Orders—When effective—Stay.
18.130.140	Appeal.
18.130.150	Reinstatement.
18.130.160	Finding of unprofessional conduct—Orders—Sanctions—Stay—Costs.
18.130.170	Capacity of license holder to practice—Hearing—Mental or physical examination—Implied consent.
18.130.180	Unprofessional conduct.
18.130.190	Practice without license—Investigation of complaints—Temporary cease and desist orders—Injunctions—Penalty.
18.130.200	Fraud or misrepresentation in obtaining a license—Penalty.
18.130.210	Commission of crime by license holder—Notice to attorney general or county prosecuting attorney.
18.130.300	Persons immune from liability.
18.130.310	Biennial reports—Format.
18.130.900	Short title.
18.130.901	Severability—1984 c 279.

Reports, studies, and recommendations by department of licensing on disciplinary procedures for health and health-related professions: RCW 43.24.075.

18.130.010 Intent. It is the intent of the legislature to strengthen and consolidate disciplinary procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

Further, the legislature declares that the addition of public members on all health care boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care. [1984 c 279 § 1.]

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

(1) "Disciplining authority" means the agency or board having the authority to take disciplinary action against a holder of a professional or business license upon a finding of a violation of this chapter or the chapter under which the license is held.

(2) "Department" means the department of licensing.

(3) "Director" means the director of licensing.

(4) "Board" means any of those boards specified in RCW 18.130.040.

(5) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

(6) "Disciplinary action" means sanctions identified in RCW 18.130.160. [1984 c 279 § 2.]

18.130.030 Chapter may be adopted. The disciplinary authorities specified in RCW 18.130.040, in consultation with professional associations, may elect to adopt by rule this chapter in lieu of the disciplinary provisions outlined under their respective chapters. [1984 c 279 § 3.]

18.130.040 Application of chapter to certain professions—Authority of director—Authority to grant or deny licenses. (1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2) (a) The director has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Drugless healers licensed under chapter 18.36 RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Psychologists licensed under chapter 18.83 RCW unless a disciplinary committee is established under chapter 18.83 RCW;

(vi) Massage operators and businesses licensed under chapter 18.108 RCW; and

(vii) Dental hygienists licensed under chapter 18.29 RCW.

(b) The boards having authority under this chapter are as follows:

(i) The podiatry board as established in chapter 18.22 RCW;

(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

(iii) The dental disciplinary board as established in chapter 18.32 RCW;

(iv) The council on hearing aids as established in chapter 18.35 RCW;

(v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;

(vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The board of practical nursing as established in chapter 18.78 RCW;

(xiii) The board of nursing as established in chapter 18.88 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32-.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter governs any investigation, hearing, or proceeding relating to denial of licensure by the disciplining authority, the board of chiropractic examiners, the board of dental examiners, and the board of medical examiners, if adopted pursuant to this chapter by the disciplinary authority. [1984 c 279 § 4.]

18.130.050 Authority of disciplining authority. The disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(3) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the disciplining authority shall make the final decision regarding disposition of the license;

(9) To use consultants or individual members of the boards to assist in the direction of investigations and issuance of statements of charges. However, the member of the board shall not subsequently participate in the hearing of the case;

(10) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(12) To adopt standards of professional conduct or practice;

(13) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter;

(14) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action. [1984 c 279 § 5.]

18.130.060 Additional authority of director. In addition to the authority specified in RCW 18.130.050, the director has the following additional authority:

(1) To hire such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint pro tem members for the purpose of participating as members of one or more committees of the board in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board. While serving as board members pro tem, 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. The chairperson of a committee shall be a regular member of the board. Committees have authority to act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through committees does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board committees may make interim orders and issue final decisions with respect to matters and cases delegated to the committee by the board. Final decisions may be appealed as provided in chapter 34.04 RCW;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency hearing or contested case as authorized by RCW 34.04.105(4). [1984 c 279 § 6.]

18.130.070 Disciplining authority may adopt rules requiring reports—Court orders—Immunity from liability—Licensees required to report. (1) The disciplining authority may adopt rules requiring any person, including, but not limited to, corporations, organizations, and federal, state, or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order shall be punished by the court as civil contempt.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action. [1984 c 279 § 7.]

18.130.080 Unprofessional conduct by license holder or applicant—Complaint—Investigation. A person, firm, corporation, or public officer may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor. If the disciplining authority determines that the complaint merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct. [1984 c 279 § 8.]

18.130.090 Statement of charge—Request for hearing—Notice. (1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of RCW 18.130.180 has occurred, a statement of charge or charges shall be prepared and served upon the license holder or applicant at the earliest practical time. The statement of charge or charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the disciplining authority may enter a decision on the basis of the facts available to it.

(2) If a hearing is requested, the time of the hearing shall be fixed by the disciplining authority as soon as convenient, but not earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. The notice shall also notify the license holder or applicant that a record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses, who will be subject to cross-examination, and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her, to examine such documentary evidence as may be produced against him or her, to conduct depositions, and to have subpoenas issued by the disciplining authority. [1984 c 279 § 9.]

18.130.100 Hearings—Contested cases under chapter 34.04 RCW. The procedures governing contested cases before agencies under chapter 34.04 RCW, the administrative procedure act, govern all hearings before the disciplining authority. The disciplining authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.04 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [1984 c 279 § 10.]

18.130.110 Findings of fact—Order—Report. (1) In the event of a finding of unprofessional conduct, the disciplining authority shall prepare and serve findings of fact and an order as provided in RCW 34.04.120. If the license holder or applicant is found to have not committed unprofessional conduct, the disciplining authority shall forthwith prepare and serve findings of fact and an order of dismissal of the charges, including public exoneration of the licensee or applicant. The findings of fact and order shall be retained by the disciplining authority as a permanent record.

(2) The disciplining authority shall report the issuance of statements of charges and final orders in cases processed by the disciplining authority to:

- (a) The person or agency who brought to the disciplining authority's attention information which resulted in the initiation of the case;
- (b) Appropriate organizations, public or private, which serve the professions;
- (c) The public. Notification of the public shall include press releases to appropriate local news media and the major news wire services; and
- (d) Counterpart licensing boards in other states, or associations of state licensing boards.

(3) This section shall not be construed to require the reporting of any information which is exempt from public disclosure under chapter 42.17 RCW. [1984 c 279 § 11.]

18.130.120 License denied, revoked, or suspended—Issuance prohibited—Exception. The department shall not issue any license to any person whose license has been denied, revoked, or suspended by the disciplining authority except in conformity with the terms and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplining authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [1984 c 279 § 12.]

18.130.130 Orders—When effective—Stay. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.04 RCW, or an order of summary suspension entered under this chapter, shall take effect immediately upon its being served. The order, if appealed to the court, shall not be stayed pending the appeal unless the court to which the appeal is taken enters an order staying the order of the disciplining authority, which stay shall provide for terms necessary to protect the public. [1984 c 279 § 13.]

18.130.140 Appeal. An individual who has been disciplined or whose license has been denied by a disciplining authority may appeal the decision as provided in chapter 34.04 RCW. [1984 c 279 § 14.]

18.130.150 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplining authority for reinstatement after an interval as determined by the disciplining authority in the order. The disciplining authority shall hold hearings on the petition and may deny the petition or may order reinstatement and impose terms and conditions as provided in RCW 18.130.160 and issue an order of reinstatement. The disciplining authority may require successful completion of an examination as a condition of reinstatement. [1984 c 279 § 15.]

18.130.160 Finding of unprofessional conduct—Orders—Sanctions—Stay—Costs. Upon a finding that a license holder or applicant has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation on the license holder's practice;
- (4) The establishment of a requirement that the license holder satisfactorily complete a specific program of remedial education or treatment;
- (5) The monitoring of the license holder's practice by a supervisor approved by the disciplining authority;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;

(8) Payment of a fine for each violation of this chapter, not to exceed one thousand dollars per violation. Funds received shall be placed in the health professions account;

(9) Denial of the license request;

(10) Corrective action by the license holder;

(11) Refund of fees charged to the consumer by the license holder.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. In determining what action is appropriate, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant. [1984 c 279 § 16.]

18.130.170 Capacity of license holder to practice—Hearing—Mental or physical examination—Implied consent. (1) If the disciplining authority believes a license holder or applicant may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill and safety. If the disciplining authority determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the disciplining authority shall impose such sanctions under RCW 18.130.160 as is deemed necessary to protect the public.

(2) In enforcing this section, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more physicians, a psychological examination by one or more licensed psychologists designated by the disciplining authority, or any combination thereof. The cost of the examinations ordered by the disciplining authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the licensee may submit psychiatric, physical, or psychological examination reports from physicians or psychologists of the license holder's or applicant's choosing and expense. Failure of a license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or denial of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and

safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

(3) For the purpose of subsection (2) of this section, an applicant or license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining physician's or psychologist's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications. [1984 c 279 § 17.]

18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. The disciplinary authority shall define by rule acts involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or use of any practice or procedure in the practice of the profession which creates an unreasonable risk of physical or mental harm or serious financial loss to the consumer;

(5) Suspension, revocation, or restriction of the individual's license to practice the profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) The possession, use, addiction to, prescription for use, diversion, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, or violation of any drug law, or prescribing drugs for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing

standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers or documents;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority; or

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding;

(9) Failure to comply with an order issued by the disciplining authority or an assurance of discontinuance entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Wilful or repeated violations of rules established by any health agency or authority of the state or a political subdivision thereof;

(12) Practice beyond the scope of practice as defined by law;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The wilful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by wilful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Drunkenness or habitual intemperance in the use of alcohol or addiction to alcohol;

(24) Physical abuse or sexual contact with a client or patient. [1984 c 279 § 18.]

18.130.190 Practice without license—Investigation of complaints—Temporary cease and desist orders—Injunctions—Penalty. (1) The director shall investigate bona fide complaints concerning practice by unlicensed individuals of a profession requiring a license. In the investigation of the complaints, the director shall have the same authority as provided the director for the investigation of complaints against license holders. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any individual may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any individual practicing a licensed profession without a license from engaging in such practice until the required license is secured. However, the injunction shall not relieve the person so practicing without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Practice of a profession specified in RCW 18.130.040 without a license, unless otherwise exempted by law, constitutes a gross misdemeanor. [1984 c 279 § 19.]

18.130.200 Fraud or misrepresentation in obtaining a license—Penalty. A person who attempts to obtain a license by wilful misrepresentation or fraudulent representation is guilty of a misdemeanor. [1984 c 279 § 20.]

18.130.210 Commission of crime by license holder—Notice to attorney general or county prosecuting attorney. If the disciplining authority determines or has cause to believe that a license holder has committed a crime, the disciplining authority shall, in addition to taking the appropriate administrative action, concurrently notify the attorney general or the county prosecuting attorney in the county in which the act took place of the facts known to the disciplining authority. [1984 c 279 § 22.]

18.130.300 Persons immune from liability. The director, members of the boards, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties. [1984 c 279 § 21.]

18.130.310 Biennial reports—Format. The disciplinary authority shall submit a report to the legislature on January 1 of each odd-numbered year on its proceedings during the biennium, detailing the number of

complaints made, investigated, and adjudicated and manner of disposition. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department of licensing shall develop a uniform report format. [1984 c 279 § 23.]

18.130.900 Short title. This chapter shall be known and cited as the uniform disciplinary act. [1984 c 279 § 24.]

18.130.901 Severability—1984 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. [1984 c 279 § 95.]

Chapter 18.135

HEALTH CARE ASSISTANTS

Sections

18.135.010	Practices authorized.
18.135.020	Definitions.
18.135.030	Rules—Requirements for certification.
18.135.040	Certification of health care assistants.
18.135.050	Health care facility or health care practitioner may certify—Roster—Recertification.
18.135.060	Conditions under which authorized functions may be performed.
18.135.070	Complaints—Violations—Investigations—Disciplinary action.
18.135.080	Violations—Decertification.
18.135.090	Practices under chapter not unlicensed practice as health care practitioner.

18.135.010 Practices authorized. It is in the public interest that limited authority to administer skin tests and subcutaneous, intradermal, intramuscular, and intravenous injections and to perform minor invasive procedures to withdraw blood in this state be granted to health care assistants who are not so authorized under existing licensing statutes, subject to such regulations as will assure the protection of the health and safety of the patient. [1984 c 281 § 1.]

18.135.020 Definitions. As used in this chapter:

(1) "Director" means the director of licensing.
 (2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter.

(3) "Health care practitioner" means a physician licensed under chapter 18.71 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, or, acting within the scope of their respective licensures, a podiatrist licensed under chapter 18.22 RCW or a registered nurse licensed under chapter 18.88 RCW.

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, or blood bank federally licensed under 21 C.F.R. 607.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee. [1984 c 281 § 2.]

18.135.030 Rules—Requirements for certification.

The director, or the director's designee, with the advice of designees of the board of medical examiners, the board of osteopathic medicine and surgery, the podiatry board, and the board of nursing, shall adopt rules necessary to administer, implement, and enforce this chapter and establish the minimum uniform requirements necessary for a health care facility or health care practitioner to certify a health care assistant capable of performing the functions authorized in this chapter. These requirements shall ensure that the public health and welfare are protected and shall include, but not be limited to, the following factors:

(1) The education and occupational qualifications of the health care assistant including types and limitation of drugs or diagnostic agents which may be administered by injection by a health care assistant;

(2) The work experience of the health care assistant; and

(3) The instruction and training provided to the health care assistant. [1984 c 281 § 4.]

18.135.040 Certification of health care assistants. A certification issued to a health care assistant pursuant to this chapter shall be authority to perform only the functions authorized in RCW 18.135.010 subject to proper delegation and supervision in the health care facility making the certification or under the supervision of the certifying health care practitioner in other health care facilities or in his or her office. No certification made by one health care facility or health care practitioner is transferrable to another health care facility or health care practitioner. [1984 c 281 § 3.]

18.135.050 Health care facility or health care practitioner may certify—Roster—Recertification.

(1) Any health care facility may certify a health care assistant to perform the functions authorized in this chapter in that health care facility; and any health care practitioner may certify a health care assistant capable of performing such services in any health care facility, or in his or her office, under a health care practitioner's supervision. Before certifying the health care assistant, the health care facility or health care practitioner shall verify that the health care assistant has met the minimum requirements established by the director under this

chapter. These requirements shall not prevent the certifying entity from imposing such additional standards as the certifying entity considers appropriate. The health care facility or health care practitioner shall provide the licensing authority with a certified roster of health care assistants who are certified.

(2) Certification of a health care assistant shall be effective for a period of two years. Recertification is required at the end of this period. Requirements for recertification shall be established by rule. [1984 c 281 § 5.]

18.135.060 Conditions under which authorized functions may be performed. Any health care assistant certified pursuant to this chapter shall perform the functions authorized in this chapter only by delegation of authority from the health care practitioner and under the supervision of a health care practitioner acting within the scope of his or her license. In the case of subcutaneous, intradermal and intramuscular and intravenous injections, a health care assistant may perform such functions only under the supervision of a health care practitioner having authority, within the scope of his or her license, to order such procedures. [1984 c 281 § 6.]

18.135.070 Complaints—Violations—Investigations—Disciplinary action. The licensing authority of health care facilities or the disciplinary board of the delegating or supervising health care practitioner shall investigate all complaints or allegations of violations of proper certification of a health care assistant or violations of delegation of authority or supervision. A substantiated violation shall constitute sufficient cause for disciplinary action by the licensing authority of a health care facility or the disciplinary board of the health care practitioner. [1984 c 281 § 7.]

18.135.080 Violations—Decertification. The director or the director's designee shall decertify a health care assistant based on a finding that the assistant has obtained certification through misrepresentation or concealment of a material fact or has engaged in unsafe or negligent practices. [1984 c 281 § 8.]

18.135.090 Practices under chapter not unlicensed practice as health care practitioner. The performance of the functions authorized in this chapter by a health care assistant pursuant to this chapter does not constitute unlicensed practice as a health care practitioner. [1984 c 281 § 9.]

Title 19

BUSINESS REGULATIONS— MISCELLANEOUS

Chapters

- 19.10 Charitable trusts.
- 19.16 Collection agencies.
- 19.27 State building code.

- 19.28 Electricians and electrical installations.
- 19.60 Pawn brokers and second-hand dealers.
- 19.80 Trade names.
- 19.91 Unfair cigarette sales below cost act.
- 19.94 Weights and measures—1969 act.
- 19.118 Motor vehicle express warranties.
- 19.122 Underground utilities.
- 19.126 Wholesale distributors and suppliers of wine and malt beverages.
- 19.130 Telephone buyers' protection act.

Chapter 19.10

CHARITABLE TRUSTS

Sections

- 19.10.010 Recodified as RCW 11.110.010. (Effective January 1, 1985.)
- 19.10.020 Recodified as RCW 11.110.020. (Effective January 1, 1985.)
- 19.10.040 Recodified as RCW 11.110.040. (Effective January 1, 1985.)
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- 19.10.070 Recodified as RCW 11.110.070. (Effective January 1, 1985.)
- 19.10.073 Recodified as RCW 11.110.073. (Effective January 1, 1985.)
- 19.10.075 Recodified as RCW 11.110.075. (Effective January 1, 1985.)
- 19.10.080 Recodified as RCW 11.110.080. (Effective January 1, 1985.)
- 19.10.090 Recodified as RCW 11.110.090. (Effective January 1, 1985.)
- 19.10.100 Recodified as RCW 11.110.100. (Effective January 1, 1985.)
- 19.10.110 Recodified as RCW 11.110.110. (Effective January 1, 1985.)
- 19.10.120 Recodified as RCW 11.110.120. (Effective January 1, 1985.)
- 19.10.125 Recodified as RCW 11.110.125. (Effective January 1, 1985.)
- 19.10.130 Recodified as RCW 11.110.130. (Effective January 1, 1985.)
- 19.10.140 Recodified as RCW 11.110.140. (Effective January 1, 1985.)
- 19.10.200 Recodified as RCW 11.110.200. (Effective January 1, 1985.)
- 19.10.210 Recodified as RCW 11.110.210. (Effective January 1, 1985.)
- 19.10.220 Recodified as RCW 11.110.220. (Effective January 1, 1985.)
- 19.10.230 Recodified as RCW 11.110.230. (Effective January 1, 1985.)
- 19.10.240 Recodified as RCW 11.110.240. (Effective January 1, 1985.)
- 19.10.250 Recodified as RCW 11.110.250. (Effective January 1, 1985.)
- 19.10.260 Recodified as RCW 11.110.260. (Effective January 1, 1985.)
- 19.10.270 Recodified as RCW 11.110.270. (Effective January 1, 1985.)
- 19.10.900 Recodified as RCW 11.110.900. (Effective January 1, 1985.)

19.10.010 Recodified as RCW 11.110.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.020 Recodified as RCW 11.110.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.040 Recodified as RCW 11.110.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.050 Recodified as RCW 11.110.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.060 Recodified as RCW 11.110.060. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.070 Recodified as RCW 11.110.070. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.073 Recodified as RCW 11.110.073. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.075 Recodified as RCW 11.110.075. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.080 Recodified as RCW 11.110.080. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

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19.10.110 Recodified as RCW 11.110.110. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.120 Recodified as RCW 11.110.120. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.125 Recodified as RCW 11.110.125. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.130 Recodified as RCW 11.110.130. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.140 Recodified as RCW 11.110.140. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.200 Recodified as RCW 11.110.200. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.210 Recodified as RCW 11.110.210. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.220 Recodified as RCW 11.110.220. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.230 Recodified as RCW 11.110.230. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.240 Recodified as RCW 11.110.240. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.250 Recodified as RCW 11.110.250. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.260 Recodified as RCW 11.110.260. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.270 Recodified as RCW 11.110.270. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.10.900 Recodified as RCW 11.110.900. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 19.16

COLLECTION AGENCIES

Sections

19.16.310 Board—Compensation—Reimbursement of travel expenses. (Effective July 1, 1985.)

19.16.310 Board—Compensation—Reimbursement of travel expenses. (Effective July 1, 1985.) Each member of the board appointed by the governor shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred while on official business of the board and in attending meetings thereof, in accordance with the provisions of RCW 43.03.050 and 43.03.060. [1984 c 287 § 54; 1975-'76 2nd ex.s. c 34 § 58; 1971 ex.s. c 253 § 22.]

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.

Chapter 19.27
STATE BUILDING CODE

Sections

- 19.27.030 National codes and standards—Adoption by reference—Conflicts.
- 19.27.070 State building code advisory council—Established—Membership—Reports—Compensation and travel expenses. (Effective July 1, 1985.)

19.27.030 National codes and standards—Adoption by reference—Conflicts. There shall be in effect in all cities, towns, and counties of the state a state building code which shall consist of the following codes which are hereby adopted by reference:

(1) Uniform Building Code and Uniform Building Code Standards, 1982 edition, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, 1982 edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials;

(3) The Uniform Fire Code and Uniform Fire Code Standards, 1982 edition, published by the International Conference of Building Officials and the Western Fire Chiefs Association: *Provided*, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) The Uniform Plumbing Code and Uniform Plumbing Code Standards, 1982 edition, published by the International Association of Plumbing and Mechanical Officials: *Provided*, That chapters 11 and 12 of such code are not adopted;

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

(6) The thermal performance and design standards for dwellings as set forth in RCW 19.27.210 through 19.27.290. This subsection shall be of no further force and effect when RCW 19.27.200 through 19.27.290 expire as provided in RCW 19.27.300.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following. [1984 c 101 § 1; 1980 c 8 § 1; 1979 ex.s. c 76 § 1; 1977 ex.s. c 14 § 11; 1975 1st ex.s. c 110 § 8; 1974 ex.s. c 96 § 3.]

Effective date—1975 1st ex.s. c 110: "Sections 8, 9, and 10 of this amendatory act shall take effect on July 1, 1976." [1975 1st ex.s. c 110 § 12.] This applies to the 1975 amendments to RCW 19.27.030 and 19.27.040 and to the repeal of RCW 70.92.010 through 70.92.060 and 70.92A.010 through 70.92A.060.

Public buildings and accommodations, provisions for elderly and handicapped: Chapter 70.92 RCW.

19.27.070 State building code advisory council—Established—Membership—Reports—Compensation and travel expenses. (Effective July 1, 1985.) There is hereby established a state building code advisory council to be appointed by the governor.

(1) The state building code advisory council shall consist of the director of the department of labor and

industries, or his designee, and the insurance commissioner, or his designee, and thirteen additional members who shall be broadly representative of the general public, local government, and of the industries and professions concerned with building design and construction. The council may include state officials as ex officio, nonvoting members. The board shall report annually to the governor and the legislature on the operation and administration of this chapter.

(2) Members shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 55; 1975-'76 2nd ex.s. c 34 § 59; 1974 ex.s. c 96 § 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.

Polling places, accessibility guidelines: RCW 29.57.030.

Chapter 19.28
ELECTRICIANS AND ELECTRICAL
INSTALLATIONS

Sections

- 19.28.065 Electrical advisory board. (Effective July 1, 1985.)
- 19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Compensation—Travel expenses. (Effective July 1, 1985.)

19.28.065 Electrical advisory board. (Effective July 1, 1985.) There is hereby created an electrical advisory board, consisting of seven members to be appointed by the governor with the advice of the director of labor and industries as herein provided. 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 electrical installation, minimum inspection procedures, and the adoption of rules and regulations pertaining to the electrical inspection division: *Provided, however*, That no rules or regulations shall be amended or repealed until the electrical advisory board has first had an opportunity to consider any proposed amendments or repeals and had an opportunity to make recommendations to the director relative thereto. The members of the electrical advisory board shall be selected and appointed as follows: One member shall be an employee or officer of a corporation or public agency generating or distributing electric power; one member shall be an employee or officer of a corporation or firm engaged in the business of making electrical installations; one member shall be an employee, or officer, or representative of a corporation or firm engaged in the business of manufacturing or distributing electrical materials, equipment, or devices; one member shall be a person not related to the electrical industry to represent the public; one member shall be a recognized electrician; one member shall be a licensed professional engineer qualified to do business in the state of Washington; and one member shall be the state chief electrical inspector. Each of the members except the

public member and the chief electrical inspector shall be appointed by the governor from among a list of individuals nominated by nonprofit organizations or associations representing individuals, corporations, or firms engaged in the business classification from which such member shall be selected. The regular term of each member shall be four years: *Provided, however,* The original board shall be appointed for the following terms: The first term of the member representing a corporation or public agency generating or distributing electric power shall serve four years; the member representing the installer of electrical equipment or appliances shall serve three years; the member representing a manufacturer or distributor of electrical equipment or devices shall serve three years; the member representing the public shall serve two years; the member selected as the recognized electrician shall serve for two years; the member selected as the licensed professional electrical engineer shall serve for one year. Thereafter, the governor shall appoint or reappoint board members for terms of four years and to fill vacancies created by the completion of the terms of the original members. The governor shall also fill vacancies caused by death, resignation, or otherwise for the unexpired term of such members by appointing their successors from the same business classification. The same procedure shall be followed in making such subsequent appointments as is provided for the original appointments. The board, at this first meeting shall elect one of its members to serve as chairman. Any person acting as the chief electrical inspector shall serve as secretary of the board during his tenure as chief state inspector. Meetings of the board shall be called at the discretion of the director of labor and industries. Each member of the board shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries. [1984 c 287 § 56; 1975-'76 2nd ex.s. c 34 § 60; 1969 ex.s. c 71 § 1; 1963 c 207 § 5.]

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.

19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Compensation—Travel expenses. (Effective July 1, 1985.) There is hereby created a board of electrical examiners consisting of nine members to be appointed by the governor. It shall be the purpose and function of this board to establish in addition to a general electrical contractors' license, such classifications of specialty electrical contractors' licenses as it deems appropriate with regard to individual sections pertaining to state adopted codes in chapter 19.28 RCW. In addition, it shall be the purpose and function of this board to establish and administer written examinations for general electrical contractors' qualifying certificates and the various specialty electrical contractors' qualifying certificates. Examinations shall be designed to reasonably insure that general and specialty electrical contractor's

qualifying certificate holders are competent to engage in and supervise the work covered by this statute and their respective licenses. The examinations shall include questions from the following categories to assure proper safety and protection for the general public: (1) Safety, (2) state electrical code, and (3) electrical theory. It shall be the further purpose and function of this board to advise the director as to the need of additional electrical inspectors and compliance officers to be utilized by the director on either a full-time or part-time employment basis. Meetings of the board shall be held quarterly on the first Monday of February, May, August, and November of each year. Each member of the board shall be compensated in accordance with RCW 43.03.240, and each member shall also receive travel expenses as provided in RCW 43.03.050 and 43.03.060, which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries. [1984 c 287 § 57; 1977 ex.s. c 79 § 1; 1975-'76 2nd ex.s. c 34 § 62; 1975 1st ex.s. c 195 § 2; 1975 1st ex.s. c 92 § 2; 1974 ex.s. c 188 § 2.]

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.

Severability—1975 1st ex.s. c 195, 1975 1st ex.s. c 92: See note following RCW 19.28.120.

Effective date—Severability—1974 ex.s. c 188: See notes following RCW 19.28.120.

Chapter 19.60

PAWN BROKERS AND SECOND-HAND DEALERS

Sections

19.60.010	Definitions.
19.60.014	Fixed place of business required.
19.60.015	Repealed.
19.60.020	Duty to record information.
19.60.030	Repealed.
19.60.040	Report to chief law enforcement officer.
19.60.045	Duties upon notification that property is reported stolen.
19.60.050	Retention of property by pawnbrokers—Inspection.
19.60.055	Retention of property by second-hand dealers—Inspection.
19.60.060	Rates of interest and other fees—Sale of pledged property.
19.60.061	Pawnbrokers—Sale of pledged property limited—Written document required for transactions.
19.60.062	Attorney fees and costs in action to recover possession.
19.60.063	Repealed.
19.60.065	Repealed.
19.60.066	Prohibited acts—Penalty.
19.60.070	Repealed.
19.60.075	Regulation by political subdivisions.
19.60.080	Repealed.
19.60.085	Exemptions.
19.60.090	Repealed.
19.60.100	Repealed.
19.60.900	Severability—1984 c 10.
19.60.901	Effective date—1984 c 10.

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

(1) Melted metals means metals derived from metal junk or precious metals that have been reduced to a

melted state from other than ore or ingots which are produced from ore that has not previously been processed.

(2) Metal junk means any metal that has previously been milled, shaped, stamped, or forged and that is no longer useful in its original form, except precious metals.

(3) Nonmetal junk means any nonmetal, commonly discarded item that is worn out, or has outlasted its usefulness as intended in its original form except nonmetal junk does not include an item made in a former period which has enhanced value because of its age.

(4) Pawnbroker means every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property.

(5) Precious metals means gold, silver, and platinum.

(6) Second-hand dealer means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, second-hand property including metal junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the state.

(7) Second-hand property means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, and clothing of a resale value of seventy-five dollars or less, except furs.

(8) Transaction means a pledge, purchase, or consignment by a pawnbroker or a second-hand dealer from a member of the general public. [1984 c 10 § 1; 1981 c 279 § 3; 1909 c 249 § 235; RRS § 2487. FORMER PARTS OF SECTION: (i) 1909 c 249 § 236; RRS § 2488, now codified as RCW 19.60.015. (ii) 1939 c 89 § 1; RRS § 2488-1, now codified as RCW 19.60.065.]

19.60.014 Fixed place of business required. No person may operate as a pawnbroker unless the person maintains a fixed place of business within the state. [1984 c 10 § 4.]

19.60.015 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.020 Duty to record information. (1) Every pawnbroker and second-hand dealer doing business in this state shall maintain wherever that business is conducted a record in which shall be legibly written in the English language, at the time of each transaction the following information:

(a) The signature of the person with whom the transaction is made;

(b) The date of the transaction;

(c) The name of the person or employee conducting the transaction;

(d) The name, date of birth, sex, height, weight, race, and address of the person with whom the transaction is made;

(e) A complete description of the property pledged, bought, or consigned, including the brand name, serial

number, model number, initials, engravings, size, patterns, and color, and in the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun;

(f) The price paid or the amount loaned;

(g) The type and identifying number of identification used by the person with whom the transaction is made, which shall consist of a valid drivers license or identification card issued by any state or two pieces of identification issued by a governmental agency, one of which shall be descriptive of the person identified; and

(h) The nature of the transaction, a number identifying the transaction, the name and address of the business conducting the transaction, and the location of the property.

(2) This record shall at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions, and shall be maintained wherever that business is conducted for three years following the date of the transaction. [1984 c 10 § 3; 1909 c 249 § 229; RRS § 2481.]

19.60.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.040 Report to chief law enforcement officer.

(1) Upon request every pawnbroker and second-hand dealer doing business in the state shall furnish or mail within twenty-four hours to the chief of police of the city or to the county's chief law enforcement officer, on such forms as are provided by the chief of police or the county's chief law enforcement officer, a full, true, and correct transcript of the record of all transactions conducted on the preceding day within the jurisdiction of the chief of police or the county's chief law enforcement officer.

(2) If a pawnbroker or second-hand dealer has good cause to believe that any property in his or her possession has been previously lost or stolen, the pawnbroker or second-hand dealer shall promptly report that fact to the applicable chief of police or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when, and the name of the person from whom it was received. [1984 c 10 § 6; 1909 c 249 § 231; RRS § 2483.]

19.60.045 Duties upon notification that property is reported stolen. Following notification from a law enforcement agency that an item of property has been reported as stolen, the pawnbroker or second-hand dealer shall hold that property intact and safe from alteration, damage, or commingling. The pawnbroker or second-hand dealer shall place an identifying tag or other suitable identification upon the property so held. Property held shall not be released for one hundred twenty days from the date of police notification unless released by written consent of the applicable law enforcement agency or by order of a court of competent jurisdiction. The pawnbroker or second-hand dealer shall give ten

days written notice before the expiration of the one hundred twenty-day holding period to the applicable law enforcement agency about the stolen property. If notice is not given within the required ten-day period, then the hold on the property shall continue for an additional one hundred twenty days. The applicable law enforcement agency may renew the holding period for additional one hundred twenty-day periods as necessary. [1984 c 10 § 5.]

Receiving stolen property: RCW 9A.56.140 through 9A.56.170.

19.60.050 Retention of property by pawnbrokers—Inspection. Property bought or received in pledge by any pawnbroker shall not be removed from that place of business, except when redeemed by the owner, within fifteen days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions. [1984 c 10 § 8; 1909 c 249 § 232; RRS § 2484.]

Restoration of stolen property: RCW 9.54.130.

19.60.055 Retention of property by second-hand dealers—Inspection. (1) Property bought or received on consignment by a second-hand dealer with a permanent place of business in the state shall not be removed from that place of business, except consigned property returned to the owner, within fifteen days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions.

(2) Property bought or received on consignment by a second-hand dealer without a permanent place of business in the state, shall be held within the city or county in which the property was received, except consigned property returned to the owner, for fifteen days after receipt of the property. The property shall be available within the appropriate jurisdiction for inspection at reasonable times by any commissioned law enforcement officer of the state or any of its political subdivisions. [1984 c 10 § 7.]

19.60.060 Rates of interest and other fees—Sale of pledged property. All pawnbrokers are authorized to charge and receive interest and other fees at the following rates for money loaned on the security of personal property actually received in pledge:

- (1) The interest shall not exceed:
 - (a) For an amount loaned up to \$19.99 – interest at \$1.00 per month;
 - (b) For an amount loaned from \$20.00 to \$39.99 – interest at the rate of \$1.50 per month;
 - (c) For an amount loaned from \$40.00 to \$75.99 – interest at the rate of \$2.00 per month;
 - (d) For an amount loaned from \$76.00 to \$100.99 – interest at the rate of \$2.50 per month;
 - (e) For an amount loaned from \$101.00 to \$125.99 – interest at the rate of \$3.00 per month;
 - (f) For an amount loaned from \$126.00 or more – interest at the rate of three percent a month;

(2) The fee for the preparation of documents, pledges, or reports required under the laws of the United States of America, the state of Washington, or the counties, cities, towns, or other political subdivisions thereof, shall not exceed:

- (a) For the amount loaned up to \$4.99 – the sum of \$.50;
- (b) For the amount loaned from \$5.00 to \$9.99 – the sum of \$2.00;
- (c) For the amount loaned from \$10.00 to \$19.99 – the sum of \$3.00;
- (d) For the amount loaned from \$20.00 to \$29.99 – the sum of \$4.00;
- (e) For the amount loaned from \$30.00 to \$39.99 – the sum of \$5.00;
- (f) For the amount loaned from \$40.00 to \$49.99 – the sum of \$6.00;
- (g) For the amount loaned from \$50.00 to \$59.99 – the sum of \$7.00;
- (h) For the amount loaned from \$60.00 to \$69.99 – the sum of \$8.00;
- (i) For the amount loaned from \$70.00 to \$79.99 – the sum of \$9.00;
- (j) For the amount loaned from \$80.00 to \$89.99 – the sum of \$10.00;
- (k) For the amount loaned from \$90.00 to \$99.99 – the sum of \$11.00;
- (l) For the amount loaned from \$100.00 to \$124.99 – the sum of \$12.00;
- (m) For the amount loaned from \$125.00 to \$149.99 – the sum of \$13.00;
- (n) For the amount loaned from \$150.00 to \$174.99 – the sum of \$14.00;
- (o) For the amount loaned from \$175.00 to \$199.99 – the sum of \$15.00;
- (p) For the amount loaned from \$200.00 to \$249.99 – the sum of \$16.00;
- (q) For the amount loaned from \$250.00 to \$299.99 – the sum of \$17.00;
- (r) For the amount loaned from \$300.00 to \$399.99 – the sum of \$18.00;
- (s) For the amount loaned from \$400.00 to \$499.99 – the sum of \$19.00;
- (t) For the amount loaned from \$500.00 or more – the sum of \$20.00;

(3) Fees under subsection (2) of this section may be charged one time only during the term of a pledge.

A copy of this section, set in twelve point type or larger, shall be posted prominently in each premises subject to this chapter. [1984 c 10 § 9; 1973 1st ex.s. c 91 § 1; 1909 c 249 § 234; RRS § 2486.]

Interest—Usury: Chapter 19.52 RCW.

19.60.061 Pawnbrokers—Sale of pledged property limited—Written document required for transactions.

(1) A pawnbroker shall not sell any property received in pledge within ninety days after the term of the loan expires. However, if a pledged article is not redeemed within the ninety-day period, the pawnbroker has all rights, title, and interest of the pledgor or the pledgor's assigns.

(2) Every transaction entered into by a pawnbroker shall be evidenced by a written document, a copy of which shall be furnished to the pledgor. The document shall set forth the loan period, the date on which the loan is due and payable, and shall inform the pledgor of the pledgor's right to redeem the pledge within ninety days after the expiration of the loan term. [1984 c 10 § 10.]

19.60.062 Attorney fees and costs in action to recover possession. In an action brought by an owner to recover goods in the possession of a pawnbroker or second-hand dealer, the prevailing party is entitled to reasonable attorney's fees and costs. [1984 c 10 § 11; 1979 ex.s. c 41 § 1.]

19.60.063 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.065 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.066 Prohibited acts—Penalty. It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased, consigned, or received in pledge;

(2) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(3) Any pawnbroker or second-hand dealer to receive any property from any person under the age of eighteen years, any person under the influence of intoxicating liquor or drugs, or any person known to the pawnbroker or second-hand dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another; or

(4) Any person to violate knowingly any other provision of this chapter. [1984 c 10 § 12.]

19.60.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.075 Regulation by political subdivisions. The regulation of pawnbrokers and second-hand dealers under this chapter is not intended to restrict political subdivisions from enacting ordinances or codes requiring the licensing of pawnbrokers and second-hand dealers or from enacting ordinances or codes which are more restrictive than the provisions of this chapter. [1984 c 10 § 13.]

19.60.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.085 Exemptions. The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Motor vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;

(3) Persons giving an allowance for the trade-in or exchange of second-hand property on the purchase of other merchandise of the same kind of greater value; and

(4) Persons in the business of buying empty food and beverage containers or nonmetal junk. [1984 c 10 § 2.]

19.60.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.60.900 Severability—1984 c 10. 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 10 § 15.]

19.60.901 Effective date—1984 c 10. 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 thirty days after it is signed by the governor and filed with the secretary of state. [1984 c 10 § 16.]

Reviser's note: The effective date of this act [1984 c 10] was March 22, 1984.

Chapter 19.80 TRADE NAMES

Sections	
19.80.001	Purposes. (Effective October 1, 1984.)
19.80.005	Definitions. (Effective October 1, 1984.)
19.80.010	Registration required. (Effective October 1, 1984.)
19.80.020	Repealed. (Effective October 1, 1984.)
19.80.025	Changes in registration—Filing amendment. (Effective October 1, 1984.)
19.80.030	Repealed. (Effective October 1, 1984.)
19.80.035	Reregistration for names registered prior to October 1, 1984—Fee—Termination of previous registration. (Effective October 1, 1984.)
19.80.040	Failure to file. (Effective October 1, 1984.)
19.80.045	Rules—Fees. (Effective October 1, 1984.)
19.80.065	RCW 42.17.260(5) inapplicable. (Effective October 1, 1984.)
19.80.075	Collection and deposit of fees. (Effective October 1, 1984.)
19.80.900	Severability—1984 c 130. (Effective October 1, 1984.)

19.80.001 Purposes. (Effective October 1, 1984.) The purposes of this chapter are: (1) To require each person who is conducting business in the state of Washington under a trade name to disclose the true and real name of each person conducting that business, and (2) to provide a central registry of businesses operating under a trade name in the state of Washington. [1984 c 130 § 1.]

Effective date—1984 c 130: "Sections 1 through 11 of this act shall take effect on October 1, 1984. The director of licensing is authorized to immediately take such steps as are necessary to insure that this act is implemented on its effective date." [1984 c 130 § 12.]

19.80.005 Definitions. (Effective October 1, 1984.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Trade name" means a word or name, or any combination of a word or name, used by a person to identify the person's business which:

(a) Is not, or does not include, the true and real name of all persons conducting the business; or

(b) Includes words which suggest additional parties of interest such as "company," "and sons," or "and associates."

(2) "Business" means an occupation, profession, or employment engaged in for the purpose of seeking a profit.

(3) "Executed" by a person means that a document signed by such person is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the person submitting the document to the department of licensing.

(4) "Person" means any individual, partnership, or corporation conducting or having an interest in a business in the state.

(5) "True and real name" means:

(a) The surname of an individual coupled with one or more of the individual's other names, one or more of the individual's initials, or any combination;

(b) The designation or appellation by which an individual is best known and called in the business community where that individual transacts business, if this is used as that individual's legal signature;

(c) The registered corporate name of a domestic corporation as filed with the secretary of state;

(d) The registered corporate name of a foreign corporation authorized to do business within the state of Washington as filed with the secretary of state;

(e) The registered partnership name of a domestic limited partnership as filed with the secretary of state;

(f) The registered partnership name of a foreign limited partnership as filed with the secretary of state; or

(g) The name of a general partnership which includes in its name the true and real names, as defined in (a) through (f) of this subsection, of each general partner as required in RCW 19.80.010. [1984 c 130 § 2.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.010 Registration required. (Effective October 1, 1984.) Each person or persons who shall carry on, conduct, or transact business in this state under any trade name shall register that trade name with the department of licensing as set forth in this section:

(1) Sole proprietorship or general partnership: The registration shall set forth the true and real name or names of each person conducting the same, together with the post office address or addresses of each such person and the name of the general partnership, if applicable.

(2) Foreign or domestic limited partnership: The registration shall set forth the limited partnership name as filed with the office of the secretary of state.

(3) Foreign or domestic corporation: The registration shall set forth the corporate name as filed with the office of the secretary of state.

(4) The registration shall be executed by:

(a) The sole proprietor of a sole proprietorship;

(b) A general partner of a domestic or foreign general or limited partnership; or

(c) An officer of a domestic or foreign corporation. [1984 c 130 § 3; 1979 ex.s. c 22 § 1; 1907 c 145 § 1; RRS § 9976.]

Effective date—1984 c 130: See note following RCW 19.80.001.

Adoption of rules—1979 ex.s. c 22: "The director of the department of licensing shall promulgate such rules and regulations as are necessary to implement the transfer of duties and of records required by section 1 of this 1979 act. Such rules shall provide for transfer of existing certificates from the counties to the department, set fees for filing of certificates and amendments, and set fees for obtaining copies thereof." [1979 ex.s. c 22 § 3.] "Section 1 of this 1979 act" consists of the amendments to RCW 19.80.010 by 1979 ex.s. c 22.

Effective date—1979 ex.s. 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 July 1, 1979." [1979 ex.s. c 22 § 4.]

19.80.020 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.80.025 Changes in registration—Filing amendment. (Effective October 1, 1984.) (1) An executed amendment shall be filed with the department of licensing when a change occurs in:

(a) The true and real name of a person conducting a business with a trade name registered under this chapter; or

(b) Any mailing address set forth on the registration or any subsequently filed amendment.

(2) A notice of cancellation shall be filed with the department when use of a trade name is discontinued.

(3) A notice of cancellation, together with a new registration, shall be filed before conducting or transacting any business when:

(a) An addition, deletion, or any change of person or persons conducting business under the registered trade name occurs; or

(b) There is a change in the wording or spelling of the trade name since initial registration or renewal. [1984 c 130 § 5.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.030 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

19.80.035 Reregistration for names registered prior to October 1, 1984—Fee—Termination of previous registration. (Effective October 1, 1984.) Within one year after October 1, 1984, each person who registered a trade name prior to October 1, 1984, and is conducting or transacting business in this state under that trade

name, shall reregister the trade name under this chapter. All reregistrations shall be executed under RCW 19.80.010 and shall be accompanied by a fee of five dollars or the fee set under RCW 19.80.045. Within three years of October 1, 1984, the department of licensing shall devise and implement a no-fee system for identifying and purging trade name registrations that have become inactive. Failure to reregister within one year of October 1, 1984, terminates the previous registration. [1984 c 130 § 4.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.040 Failure to file. (Effective October 1, 1984.) No person or persons carrying on, conducting, or transacting business under any trade name shall be entitled to maintain any suit in any of the courts of this state until such person or persons have properly completed the registration as provided for in RCW 19.80.010. Failure to complete this registration shall not impair the validity of any contract or act of such person or persons and shall not prevent such person or persons from defending any suit in any court of this state. [1984 c 130 § 7; 1907 c 145 § 5; RRS § 9980. Formerly RCW 19.80.040 and 19.80.050.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.045 Rules—Fees. (Effective October 1, 1984.) The director of licensing shall adopt rules as necessary to administer this chapter. The rules may include but are not limited to specifying forms and setting fees for trade name registrations, amendments, searches, renewals, and copies of registration documents. Fees shall not exceed the actual cost of administering this chapter. [1984 c 130 § 6.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.065 RCW 42.17.260(5) inapplicable. (Effective October 1, 1984.) RCW 42.17.260(5) does not apply to registrations made under this chapter. [1984 c 130 § 8.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.075 Collection and deposit of fees. (Effective October 1, 1984.) All fees collected by the department of licensing under this chapter shall be deposited with the state treasurer and credited to the general fund. [1984 c 130 § 9.]

Effective date—1984 c 130: See note following RCW 19.80.001.

19.80.900 Severability—1984 c 130. (Effective October 1, 1984.) 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 130 § 11.]

Effective date—1984 c 130: See note following RCW 19.80.001.

Chapter 19.91

UNFAIR CIGARETTE SALES BELOW COST ACT

(Formerly: Unfair cigarette sales act)

Sections

19.91.010 Definitions.
19.91.911 Expiration of chapter—Performance audit.

19.91.010 Definitions. When used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

(2) "Wholesaler" includes any person who:

(a) Purchases cigarettes directly from the manufacturer, or

(b) Purchases cigarettes from any other person who purchases from or through the manufacturer, for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only, or

(c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this chapter.

(3) "Retailer" means and includes any person who operates a store, stand, booth, concession, or vending machine for the purpose of making sales of cigarettes at retail.

(4) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(5) "Sale" means any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatsoever.

(6) "Sell at wholesale", "sale at wholesale" and "wholesale" sales mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(7) "Sell at retail", "sale at retail" and "retail sales" mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

(8) "Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, to which shall be

added the full face value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price. The disposition of the manufacturers' cash discount is at the discretion of the wholesaler. Any retailer or wholesaler who actually receives and sells cigarettes with trade or cash discounts shall execute a sworn affidavit and obtain a sworn affidavit from the person granting the discount, whether a manufacturer or wholesaler, which shows: (a) Amount or rate of the discount, (b) date the discount was granted, (c) names of the persons granting and receiving the discount, and (d) whether the discount is for cash or trade purposes. Sworn affidavits under this section are maintained for five years and available for inspection by the department of revenue's request. The department of revenue may impose a civil penalty not to exceed two hundred fifty dollars for each failure to maintain affidavits under this section.

Nothing in this section may be construed to require any retailer to obtain affidavits from retail purchasers of cigarettes.

(9) (a) The term "cost to the wholesaler" means the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said wholesalers "cost of doing business" bears to said wholesalers dollar volume for all products sold by the wholesaler per annum, and said "cost of doing business by the wholesaler" shall be evidenced and determined by the standards and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling cost, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the wholesaler per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) For the purposes of this chapter the "cost of doing business" may not be computed using a percentage less than the overall percentage shown in subsection (9)(a) of this section or in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be four percent of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost, shall be deemed to be one-half of one percent of the "basic cost of cigarettes" to the wholesaler.

(10) (a) The term "cost to the retailer" means the "basic cost of cigarettes" to the retailer plus the "cost of

doing business by the retailer" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said retailers "cost of doing business" bears to said retailers dollar volume per annum, and said "cost of doing business by the retailer" shall be evidenced and determined by the standards and methods of accounting regularly employed by him for the purpose of federal income tax reporting for the total operation of his establishment in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising, expressed as a percentage and applied to the "basic cost of cigarettes": *Provided*, That any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subdivision, add the "cost of doing business by the wholesaler," as defined in subdivision (9) of this section, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer". Any fractional part of a cent amounting to one-tenth of one cent or more in cost to the retailer per carton of ten packages of cigarettes shall be rounded off to the next higher cent.

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be twelve and five-tenths percent of the "basic cost of cigarettes" to the retailer.

(c) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be twelve and five-tenths percent of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler".

(11) "Business day" means any day other than a Sunday or a legal holiday.

(12) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement. [1984 c 173 § 1; 1983 c 2 § 3. Prior: 1982 1st ex.s. c 16 § 1; 1982 c 182 § 34; 1979 c 107 § 1; 1967 ex.s. c 26 § 20; 1957 c 286 § 1.]

Effective date—1984 c 173: "Section 1 of this act is effective July 1, 1984." [1984 c 173 § 3.]

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1982 c 182: See RCW 19.02.901.

Effective date—1967 ex.s. c 26: See note following RCW 82.01.050.

Tax on cigarettes

for school bonds: RCW 28A.47.440.
generally: Chapter 82.24 RCW.

19.91.911 Expiration of chapter—Performance audit. (1) This chapter shall expire on June 30, 1986, unless extended by law indefinitely or for an additional fixed period of time. The legislative budget committee shall cause a performance audit to be conducted of this chapter. The final audit report shall be available to the legislature at least six months prior to the scheduled expiration date. The legislative budget committee shall make objective findings of fact, conclusions, and recommendations as to the continuation, modification, or expiration of this chapter.

(2) In conducting its audit, the legislative budget committee shall consider, but not be limited to, the following areas:

(a) Definition, adequacy, and methods of determining cigarette pricing;

(b) The advantages, disadvantages, and effects of including cash discounts in the act's pricing formula; and

(c) The effect that state deregulation of cigarette pricing would have on wholesalers, retailers, and consumers.

(3) The legislative budget committee shall hold meetings and hearings at the times and places it designates to accomplish the purposes of this section. It shall make use of existing legislative facilities and the staff of the senate and house of representatives. [1984 c 173 § 2.]

Chapter 19.94

WEIGHTS AND MEASURES—1969 ACT

Sections

19.94.505 Gasoline containing alcohol—Dispensing device label required—Penalty.

19.94.505 Gasoline containing alcohol—Dispensing device label required—Penalty. It is unlawful for any dealer or service station, as both are defined in RCW 82.36.010, to sell ethanol and/or methanol at one percent, by volume, or greater in gasoline for use as motor vehicle fuel unless the dispensing device has a label stating the type and maximum percentage of alcohol contained in the motor vehicle fuel.

Violation of this section is a misdemeanor. [1984 c 61 § 1.]

Chapter 19.118

MOTOR VEHICLE EXPRESS WARRANTIES

Sections

19.118.030 Manufacturer's duty to repair—Conformity with express warranties.

19.118.040 Inability to conform to express warranties—Buyer's reimbursement.

19.118.030 Manufacturer's duty to repair—Conformity with express warranties. If a motor vehicle does

not conform to all applicable express warranties and the nonconformity is not the result of misuse or abuse of the motor vehicle by the buyer, and the buyer reports the nonconformity to the manufacturer or its agent or authorized dealer during the term of the express warranties, the manufacturer, its agent, or its authorized dealer shall, within a reasonable period of time, begin to make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term or such one-year period. Unless the buyer agrees in writing to the contrary, the motor vehicle must be serviced or repaired so as to conform to the applicable express warranties within thirty days of the notice of nonconformity. Delays caused by conditions beyond the control of the manufacturer, its agent, or its authorized representative shall serve to extend the thirty-day requirement. When such delay arises, the conforming services or repairs shall be rendered as soon as possible after termination of the conditions which gave rise to the delay. [1984 c 148 § 1; 1983 c 240 § 3.]

19.118.040 Inability to conform to express warranties—Buyer's reimbursement. If the manufacturer or its representative or its authorized dealer is unable to service or repair the motor vehicle to conform to the applicable express warranties after a reasonable number of attempts and the buyer has notified the manufacturer at least once in writing, the manufacturer shall reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer. [1984 c 148 § 2; 1983 c 240 § 4.]

Chapter 19.122

UNDERGROUND UTILITIES

Sections

19.122.010 Intent.
19.122.020 Definitions.
19.122.030 Notice of excavation to owners of underground facilities—Time for notice—Marking of underground facilities—Costs.
19.122.040 Underground facilities identified in bid or contract—Excavator's duty of reasonable care—Liability for damages—Attorneys' fees.
19.122.050 Damage to underground facility—Notification by excavator—Repairs or relocation of facility.
19.122.060 Exemption from notice and marking requirements for property owners.
19.122.070 Civil penalties—Treble damages—Existing remedies not affected.
19.122.080 Waiver of notification and marking requirements.
19.122.900 Severability—1984 c 144.

19.122.010 Intent. It is the intent of the legislature in enacting this chapter to assign responsibilities for locating and keeping accurate records of utility locations, protecting and repairing damage to existing underground facilities, and protecting the public health and safety from interruption in utility services caused by damage to existing underground utility facilities. [1984 c 144 § 1.]

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

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected utility owner determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" means any operation in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means, except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline.

(5) "Excavator" means any person who engages directly in excavation.

(6) "Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(7) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

(8) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

(9) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

(10) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

(11) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

(12) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground.

(13) "One-number locator service" means a service through which a person can notify utilities and request field-marking of underground facilities. [1984 c 144 § 2.]

19.122.030 Notice of excavation to owners of underground facilities—Time for notice—Marking of underground facilities—Costs. Before commencing any excavation, the excavator shall provide notice of the scheduled commencement of excavation to all owners of underground facilities through a one-number locator service. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities not less than two business days or more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed by the parties.

Upon receipt of the notice provided for in this section, the owner of the underground facility shall provide the excavator with reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the owner of such facilities shall provide the excavator with the best available information as to their locations. The owner of the underground facility providing the information shall respond no later than two business days after the receipt of the notice or before the excavation time, at the option of the owner, unless otherwise agreed by the parties. Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings. Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section.

The owner of the underground facility shall have the right to receive compensation for costs incurred in responding to excavation notices given less than two business days prior to the excavation from the excavator.

An owner of underground facilities is not required to indicate the presence of existing service laterals or appurtenances if the presence of existing service laterals or appurtenances on the site of the construction project can be determined from the presence of other visible facilities, such as buildings, manholes, or meter and junction boxes on or adjacent to the construction site.

Emergency excavations are exempt from the time requirements for notification provided in this section.

If the excavator, while performing the contract, discovers underground facilities which are not identified, the excavator shall cease excavating in the vicinity of the facility and immediately notify the owner or operator of such facilities, or the one-number locator service. [1984 c 144 § 3.]

19.122.040 Underground facilities identified in bid or contract—Excavator's duty of reasonable care—Liability for damages—Attorneys' fees. (1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project

owner to be located within the proposed area of excavation. The following shall be deemed changed or differing site conditions:

(a) An underground facility not identified as required by this chapter or other provision of law; and

(b) An underground facility not located, as required by this chapter or other provision of law, by the project owner or excavator if the project owner or excavator is also a utility.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator shall:

(a) Determine the precise location of underground facilities which have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation shall be liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, different from the provisions of this chapter is against public policy and unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys' fees. [1984 c 144 § 4.]

19.122.050 Damage to underground facility—Notification by excavator—Repairs or relocation of facility. (1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the utility owning or operating such facility and the one-number locator service. If the damage causes an emergency condition, the excavator causing the damage shall also alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) The owner of the underground facilities damaged shall arrange for repairs or relocation as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price. [1984 c 144 § 5.]

19.122.060 Exemption from notice and marking requirements for property owners. An excavation of less than twelve inches in vertical depth on private noncommercial property shall be exempt from the requirements of RCW 19.122.030, if the excavation is being performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed. [1984 c 144 § 6.]

19.122.070 Civil penalties—Treble damages—Existing remedies not affected. (1) Any person who violates any provision of this chapter, and which violation results in damage to underground facilities, is subject to a civil penalty of not more than one thousand dollars for each violation. All penalties recovered in such actions shall be deposited in the general fund.

(2) Any excavator who wilfully or maliciously damages a field-marked underground facility shall be liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known underground facility owners or the one-number locator service, any damage to the underground facility shall be deemed wilful and malicious and shall be subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage. [1984 c 144 § 7.]

19.122.080 Waiver of notification and marking requirements. The notification and marking provisions of this chapter may be waived for one or more designated persons by an underground facility owner with respect to all or part of that underground facility owner's own underground facilities. [1984 c 144 § 8.]

19.122.900 Severability—1984 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. [1984 c 144 § 9.]

Chapter 19.126

WHOLESALE DISTRIBUTORS AND SUPPLIERS OF WINE AND MALT BEVERAGES

Sections

19.126.010	Purpose.
19.126.020	Definitions.
19.126.030	Suppliers' protections.
19.126.040	Distributors' protections.
19.126.050	Suppliers' prohibited acts.
19.126.060	Attorney's fees—Costs.
19.126.900	Short title.
19.126.901	Severability—1984 c 169.

19.126.010 Purpose. (1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and wine are interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best

competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and wine and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States. [1984 c 169 § 1.]

19.126.020 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and wholesale distributor.

(2) "Wholesale distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any malt beverage or wine for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a malt beverage or wine manufacturer.

(3) "Supplier" means any malt beverage or wine manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any domestic winery licensed pursuant to RCW 66.24.170; (b) any winery or manufacturer of wine producing less than three hundred thousand gallons of wine annually and holding a certificate of approval issued pursuant to RCW 66.24.206; (c) any brewer licensed under RCW 66.24.240 and producing less than fifty thousand barrels of malt liquor annually; or (d) any brewer or manufacturer of malt liquor producing less than fifty thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270.

(4) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(5) "Wine manufacturer" means every winery, processor, bottler, or packager of wine located within or outside this state, or any other person, whether located within or outside this state who enters into an agreement of distributorship for the resale of wine in this state with any wine wholesale distributor doing business in the state of Washington.

(6) "Importer" means any wholesale distributor importing beer or wine into this state for sale to retailer accounts or for sale to other wholesalers designated as "subjobbers" for resale.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity. [1984 c 169 § 2.]

19.126.030 Suppliers' protections. Suppliers are entitled to the following protections which shall be incorporated in the agreement of distributorship:

(1) Agreements between suppliers and wholesale distributors shall be in writing;

(2) A wholesale distributor shall maintain the financial and competitive capability necessary to achieve efficient and effective distribution of the supplier's products;

(3) A wholesale distributor shall maintain the quality and integrity of the supplier's product in the manner set forth by the supplier;

(4) A wholesale distributor shall exert its best efforts to sell the product of the supplier and shall merchandise such products in the stores of its retail customers as agreed between the wholesale distributor and supplier;

(5) The supplier may cancel or otherwise terminate any agreement with a wholesale distributor immediately and without notice if the reason for such termination is insolvency, the occurrence of an assignment for the benefit of creditors, bankruptcy, or suspension in excess of fourteen days or revocation of a license issued by the state liquor board;

(6) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of any material change in its ownership or management and the supplier has the right to reasonable prior approval of any such change; and

(7) A wholesale distributor shall give the supplier prior written notice, of not less than ninety days, of the wholesale distributor's intent to cancel or otherwise terminate the distributorship agreement. [1984 c 169 § 3.]

19.126.040 Distributors' protections. Wholesale distributors are entitled to the following protections which shall be incorporated in the agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers shall be in writing;

(2) A supplier shall give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in RCW 19.126.030(5). The notice shall state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor shall have sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor is entitled to compensation for the laid-in cost of inventory and liquidated damages measured on the fair market price of the business as provided for in the agreement for any termination of the agreement by the supplier other than termination for cause, for failure to live up to the terms and conditions of the agreement, or any reason set forth in RCW 19.126.030(5); and

(4) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement, if the person or persons to be substituted meet reasonable standards imposed by the supplier. [1984 c 169 § 4.]

19.126.050 Suppliers' prohibited acts. No supplier may:

(1) Coerce or induce, or attempt to induce or coerce, any wholesale distributor to engage in any illegal act or course of conduct;

(2) Require a wholesale distributor to assent to any unreasonable requirement, condition, understanding, or term of an agreement which prohibits a wholesaler from selling the product of any other supplier or suppliers; or

(3) Require a wholesale distributor to accept delivery of any product or any other item or commodity which was not ordered by the wholesale distributor. [1984 c 169 § 5.]

19.126.060 Attorney's fees—Costs. In any action brought by a wholesale distributor or a supplier pursuant to this chapter, the prevailing party shall be awarded its reasonable attorney's fees and costs. [1984 c 169 § 6.]

19.126.900 Short title. This chapter may be known and cited as the wholesale distributor/supplier equity agreement act. [1984 c 169 § 7.]

19.126.901 Severability—1984 c 169. 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 169 § 9.]

Chapter 19.130

TELEPHONE BUYERS' PROTECTION ACT

Sections

19.130.010	Legislative findings.
19.130.020	Sales of new or reconditioned telephone equipment— Disclosure of certain information.
19.130.030	Certain advertising media—Application of chapter.
19.130.040	Certain radio equipment—Application of chapter.
19.130.050	Equipment not intended for connection to telephone network and used equipment located on customer's premises—Application of chapter.
19.130.060	Violations—Application of consumer protection act.
19.130.900	Chapter cumulative.
19.130.901	Short title.

19.130.010 Legislative findings. The legislature finds that the federal deregulation of the telephone industry provides telephone users with the opportunity to purchase and use telephone and other telecommunications equipment suited to their needs. The legislature finds that competitive markets function optimally when potential buyers have adequate information about the capabilities and reliability of the equipment offered for

sale. The legislature further finds that disclosure of certain product information will benefit both buyers and sellers of telephone and other telecommunications equipment and is in the public interest. [1984 c 275 § 1.]

19.130.020 Sales of new or reconditioned telephone equipment—Disclosure of certain information. Any person offering for sale or selling new or reconditioned telephone handsets or keysets, private branch exchanges, or private automatic branch exchanges of not more than a twenty-station capacity, shall clearly disclose prior to sale by methods which may include posting of notice or printing on the equipment package the following:

(1) Whether the equipment uses pulse, tone, pulse-or-tone, or other signaling methods, and a general description of the services that can be accessed through the equipment;

(2) Whether the equipment is registered with the federal communications commission under the applicable federal regulations;

(3) The person responsible for repair of the equipment;

(4) Standard repair charges, if any; and

(5) The terms of any written warranty offered with the equipment. [1984 c 275 § 2.]

19.130.030 Certain advertising media—Application of chapter. Nothing in this chapter applies to a radio station, television station, publisher, printer, or distributor of a newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this chapter. [1984 c 275 § 3.]

19.130.040 Certain radio equipment—Application of chapter. This chapter shall not apply to radio equipment used for land, marine, or air mobile service, or any like service, whether or not such equipment is capable of interconnection by manual or automatic means to a telephone line. [1984 c 275 § 4.]

19.130.050 Equipment not intended for connection to telephone network and used equipment located on customer's premises—Application of chapter. This chapter shall not apply to equipment not intended for connection to the telephone network, nor to used equipment located on the customer's premises. [1984 c 275 § 5.]

19.130.060 Violations—Application of consumer protection act. Violation of this chapter constitutes a violation of chapter 19.86 RCW, the consumer protection act. It shall be presumed that damages to the consumer are equal to the purchase price of any telephone equipment sold in violation of this chapter up to one hundred dollars. Additional damages must be proved. [1984 c 275 § 7.]

19.130.900 Chapter cumulative. The rights, obligations, and remedies under this chapter are in addition to

any rights, obligations, or remedies under federal statutes or regulations or other state statutes or rules. [1984 c 275 § 6.]

19.130.901 Short title. This chapter may be known and cited as the telephone buyers' protection act. [1984 c 275 § 8.]

Title 21

SECURITIES AND INVESTMENTS

Chapters

- 21.24 Uniform gifts to minors act.**
21.25 Gifts of realty to minors act.

Chapter 21.24

UNIFORM GIFTS TO MINORS ACT

Sections

- 21.24.010 Recodified as RCW 11.93.010. (Effective January 1, 1985.)
 21.24.020 Recodified as RCW 11.93.020. (Effective January 1, 1985.)
 21.24.030 Recodified as RCW 11.93.030. (Effective January 1, 1985.)
 21.24.040 Recodified as RCW 11.93.040. (Effective January 1, 1985.)
 21.24.050 Recodified as RCW 11.93.050. (Effective January 1, 1985.)
 21.24.060 Recodified as RCW 11.93.060. (Effective January 1, 1985.)
 21.24.070 Recodified as RCW 11.93.070. (Effective January 1, 1985.)
 21.24.080 Recodified as RCW 11.93.080. (Effective January 1, 1985.)
 21.24.090 Recodified as RCW 11.93.910. (Effective January 1, 1985.)
 21.24.091 Recodified as RCW 11.93.911. (Effective January 1, 1985.)
 21.24.100 Recodified as RCW 11.93.900. (Effective January 1, 1985.)
 21.24.900 Recodified as RCW 11.93.920. (Effective January 1, 1985.)

21.24.010 Recodified as RCW 11.93.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.020 Recodified as RCW 11.93.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.030 Recodified as RCW 11.93.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.040 Recodified as RCW 11.93.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.050 Recodified as RCW 11.93.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.060 Recodified as RCW 11.93.060. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.070 Recodified as RCW 11.93.070. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.080 Recodified as RCW 11.93.080. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.090 Recodified as RCW 11.93.910. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.091 Recodified as RCW 11.93.911. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.100 Recodified as RCW 11.93.900. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.24.900 Recodified as RCW 11.93.920. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 21.25

GIFTS OF REALTY TO MINORS ACT

Sections

- 21.25.010 through 21.25.110 Repealed. (Effective January 1, 1985.)
 21.25.900 Repealed. (Effective January 1, 1985.)

21.25.010 through 21.25.110 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

21.25.900 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 23A

WASHINGTON BUSINESS CORPORATION ACT

Chapters

- 23A.04 Definitions.**
23A.08 Substantive provisions.
23A.12 Formation of corporations.
23A.16 Amendment.
23A.32 Foreign corporations.
23A.40 Fees and charges.
23A.44 Miscellaneous provisions.
23A.98 Construction.

False statements, penalty for filing: RCW 43.07.210.

Chapter 23A.04 DEFINITIONS

Sections

23A.04.010 Definitions.

23A.04.010 Definitions. As used in this title, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation for profit subject to the provisions of this title, except a foreign corporation.

(2) "Foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose or purposes for which a corporation may be organized under this title.

(3) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto including articles of merger.

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

(5) "Subscriber" means one who subscribes for one or more shares in a corporation, whether before or after incorporation.

(6) "Shareholder" means one who is a holder of record of one or more shares in a corporation. If the articles of incorporation or the bylaws so provide, the board of directors may adopt by resolution a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. The resolution shall set forth:

(a) The classification of shareholder who may certify;

(b) The purpose or purposes for which the certification may be made;

(c) The form of certification and information to be contained therein;

(d) If the certification is with respect to a record date or closing of the stock transfer books within which the certification must be received by the corporation; and

(e) Such other provisions with respect to the procedure as are deemed necessary or desirable.

Upon receipt by the corporation of a certification complying with the procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth in the certification, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

(7) "Authorized shares" means the shares of all classes which the corporation is authorized to issue.

(8) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(9) "Conforms to law" as used in this title in connection with duties of the secretary of state in reviewing documents for filing under this title means the secretary of state has determined the document complies as to form with the applicable requirements of this title.

(10) "Effective date" means, in connection with a filing made by the secretary of state, the date which is

shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this title and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the date of receipt which might otherwise be applied as the effective date.

(11) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person submitting the document with the secretary of state.

(12) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary or the treasurer of the corporation.

(13) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrance of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a dividend; a purchase, redemption, or other acquisition of shares; or otherwise. [1984 c 75 § 1; 1982 c 35 § 4; 1979 c 16 § 1; 1965 c 53 § 3.]

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

Chapter 23A.08 SUBSTANTIVE PROVISIONS

Sections

23A.08.020	General powers.
23A.08.030	Power of corporation to acquire its own shares.
23A.08.120	Authorized shares.
23A.08.130	Issuance of shares of preferred or special classes in series.
23A.08.135	Creation and issuance of rights or options to purchase shares from the corporation.
23A.08.150	Issuance of shares.
23A.08.160	Payment for shares.
23A.08.170	Repealed.
23A.08.180	Expenses of organization, reorganization and financing.
23A.08.190	Certificates representing shares.
23A.08.200	Issuance of fractions of a share or scrip.
23A.08.300	Voting of shares.
23A.08.400	Executive and other committees.
23A.08.420	Distributions to shareholders.
23A.08.430	Repealed.
23A.08.450	Liability of directors in certain cases.
23A.08.500	Books, records and minutes.

23A.08.020 General powers. Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money and use its credit to assist its employees.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To make guarantees respecting the contracts, securities, or obligations of any person (including, but not limited to, any shareholder, any affiliated or unaffiliated individual, domestic or foreign corporation, partnership, association, joint venture or trust) if such guarantee may reasonably be expected to benefit, directly or indirectly, the guarantor corporation. As to the enforceability of the guarantee, the decision of the board of directors that the guarantee may be reasonably expected to benefit, directly or indirectly, the guarantor corporation shall be binding in respect to the issue of benefit to the guarantor corporation.

(10) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(11) To conduct its business, carry on its operations, and have offices and exercise the powers granted by this title, within or without this state.

(12) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(13) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(14) To make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(15) To transact any lawful business which the board of directors finds will be in aid of governmental policy.

(16) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees.

(17) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other enterprise.

(18) To cease its corporate activities and surrender its corporate franchise.

(19) To have and exercise all powers necessary or convenient to effect its purposes. [1984 c 75 § 2; 1979 c 16 § 3; 1969 ex.s. c 58 § 1; 1965 c 53 § 5.]

23A.08.030 Power of corporation to acquire its own shares. (1) A corporation shall have the power to acquire its own shares. All of its own shares acquired by a corporation shall, upon acquisition, constitute authorized but unissued shares, unless the articles of incorporation provide that they shall not be reissued.

(2) If the articles of incorporation prohibit the reissue of shares upon acquisition thereof by the corporation, the corporation shall, not later than the time it files its next annual report under this title with the secretary of state, file a statement of cancellation:

(a) The statement of cancellation shall be executed in duplicate by the corporation by one of its officers and shall set forth:

(i) The name of the corporation.

(ii) The number of acquired shares canceled, itemized by classes and series.

(iii) The number of authorized shares, itemized by classes and series, after giving effect to such cancellation.

(iv) The amount of the corporation's authorized capital stock after giving effect to such cancellation.

(b) Duplicate originals of such statement shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as prescribed in this title:

(i) Endorse on each of such originals the word "Filed," and the effective date of the filing thereof.

(ii) File one of such originals in the secretary of state's office.

(iii) Return the other original to the corporation or its representative.

(c) Upon the effective date of the filing of the statement of cancellation by the secretary of state, the corporation's articles of incorporation are deemed to have been amended to reduce the number of shares of the classes and series so canceled which the corporation is authorized to issue by the number of shares so canceled. [1984 c 75 § 3; 1971 ex.s. c 38 § 1; 1967 c 190 § 8; 1965 c 53 § 6.]

23A.08.120 Authorized shares. Each corporation shall have power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or

shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this title.

Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(1) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(2) Entitling the holders thereof to cumulative, non-cumulative or partially cumulative dividends.

(3) Having preference over any other class or classes of shares as to the payment of dividends.

(4) Having preference in the assets of the corporation over any other class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(5) Convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation. [1984 c 75 § 4; 1979 c 16 § 8; 1965 c 53 § 15.]

23A.08.130 Issuance of shares of preferred or special classes in series. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, to fix and determine or to amend the relative rights and preferences of the shares of any series that is wholly unissued or to be established. Within the limits stated in the articles of incorporation or the resolution of the board of directors establishing the series, the board of directors may, after the issue of shares of a series whose number it is authorized to designate, amend the resolution establishing the series to decrease (but not below the number of shares of such series then outstanding) the number of shares of that series, and the number of shares constituting the decrease shall resume the status which they had before the adoption of the resolution establishing the series.

(3) In order for the board of directors to establish or amend a series, where authority so to do is contained in the articles of incorporation, the board of directors shall

adopt a resolution setting forth the designation or amendment of the series and fixing and determining or amending the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) For any series established or amended by resolution adopted by the board of directors, the corporation shall file and execute in the manner hereinafter provided a statement setting forth:

(a) The name of the corporation.

(b) A copy of the resolution amending, or establishing and designating, the series and fixing and determining the relative rights and preferences thereof.

(c) The date of adoption of such resolution.

(d) That such resolution was duly adopted by the board of directors.

(5) Such statement shall be executed in duplicate by the corporation by one of its officers, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, the secretary of state shall, when all fees have been paid as in this title prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(b) File one of such originals.

(c) Return the other original to the corporation or its representative.

(6) Upon the filing of such statement by the secretary of state, the resolution amending, or establishing and designating, the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation. [1984 c 75 § 5; 1982 c 35 § 9; 1977 ex.s. c 193 § 2; 1975 1st ex.s. c 264 § 5; 1965 c 53 § 16.]

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

23A.08.135 Creation and issuance of rights or options to purchase shares from the corporation. Subject to any provisions in respect thereof set forth in its articles of incorporation, a corporation may create and issue, whether or not in connection with the issuance and sale of any of its shares or other securities, rights or options entitling the holders thereof to purchase from the corporation shares of any class or classes. Such rights or options shall be evidenced in such manner as the board of directors shall approve and, subject to the provisions of the articles of incorporation, shall set forth the terms upon which, the time or times within which and the price or prices at which such shares may be purchased from the corporation upon the exercise of any such right or option. If such rights or options are to be issued to directors, officers or employees as such of the corporation or of any subsidiary thereof, and not to the shareholders generally, their issuance shall be approved by the affirmative vote of the holders of a majority of the shares entitled to vote thereon or shall be authorized by and consistent with a plan approved or ratified by such a vote of shareholders. In the absence of fraud in the transaction, the judgment of the board of directors as to the adequacy of the consideration received for such

rights or options shall be conclusive. [1984 c 75 § 6; 1971 ex.s. c 38 § 5.]

23A.08.150 Issuance of shares. Subject to any restrictions in the articles of incorporation:

(1) Shares may be issued for such consideration as shall be authorized by the board of directors establishing a price (in money or other consideration) or a minimum price or general formula or method by which the price will be determined; and

(2) Upon authorization by the board of directors, the corporation may issue its own shares in exchange for or in conversion of its outstanding shares, or distribute its own shares, pro rata to its shareholders or the shareholders of one or more classes or series, to effectuate stock dividends or splits, and any such transaction shall not require consideration. However, such issuance of shares of any class or series shall not be made to the holders of shares of any other class or series unless it is either expressly provided for in the articles of incorporation, or is authorized by an affirmative vote or the written consent of the holders of at least a majority of the outstanding shares of the class or series in which the distribution is to be made. [1984 c 75 § 7; 1979 c 16 § 9; 1965 c 53 § 18.]

23A.08.160 Payment for shares. The consideration for the issuance of shares may be paid in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment, for shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive. [1984 c 75 § 8; 1965 c 53 § 19.]

23A.08.170 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

23A.08.180 Expenses of organization, reorganization and financing. The reasonable charges and expenses of organization or reorganization of a corporation, and the reasonable expenses of and compensation for the sale or underwriting of its shares, may be paid or allowed by such corporation out of the consideration received by it in payment for its shares without thereby rendering such shares assessable. [1984 c 75 § 9; 1965 c 53 § 21.]

23A.08.190 Certificates representing shares. The shares of a corporation shall be represented by certificates signed by the president or a vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and the secretary or assistant secretary upon a

certificate may be facsimiles if the certificate is manually signed on behalf of a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

(1) That the corporation is organized under the laws of this state.

(2) The name of the person to whom issued.

(3) The number and class of shares, and the designation of the series, if any, which such certificate represents.

Each certificate representing shares may state upon the face thereof the par value of each share, or a statement that the shares are without par value.

No certificate shall be issued for any share until the consideration established for its issuance has been paid. [1984 c 75 § 10; 1979 c 16 § 10; 1965 c 53 § 22.]

23A.08.200 Issuance of fractions of a share or scrip. A corporation may (1) issue fractions of a share, (2) arrange for the disposition of fractional interests by those entitled thereto, (3) pay in money the fair value of fractions of a share as of the time when those entitled to receive such shares are determined, or (4) issue scrip in registered or bearer form which shall entitle the holder to receive a certificate for a full share upon the surrender of such scrip aggregating a full share. A certificate for a fractional share shall, but scrip shall not unless otherwise provided therein, entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. The board of directors may cause such scrip to be issued subject to the condition that it shall become void if not exchanged for certificates representing full shares before a specified date, or subject to the condition that the shares for which such scrip is exchangeable may be sold by the corporation and the proceeds thereof distributed to the holders of such scrip, or subject to any other conditions which the board of directors may deem advisable. [1984 c 75 § 11; 1979 c 16 § 11; 1965 c 53 § 23.]

23A.08.300 Voting of shares. Each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except as may be otherwise provided in the articles of incorporation. If the articles of incorporation provide for more or less than one vote for any share, on any matter, every reference in this title to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast.

Shares held by another corporation if a majority of the shares entitled to vote for the election of directors of such other corporation is held by the corporation shall not be voted at any meeting or counted in determining the total number of outstanding shares at any given time.

A shareholder may vote either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Unless the articles of incorporation otherwise provide, at each election for directors every shareholder entitled to vote at such election shall have the right to vote in person or by proxy, the number of shares owned by him for as many persons as there are directors to be elected and for whose election he has a right to vote, or to cumulate his votes by giving one candidate as many votes as the number of such directors multiplied by the number of his shares shall equal, or by distributing such votes on the same principle among any number of such candidates.

Shares standing in the name of another corporation, domestic or foreign, may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

On and after the date on which written notice of redemption of redeemable shares has been mailed to the holders thereof and a sum sufficient to redeem such shares has been deposited with a bank or trust company with irrevocable instruction and authority to pay the redemption price to the holders thereof upon surrender of certificates therefor, such shares shall not be entitled to

vote on any matter and shall not be deemed to be outstanding shares. [1984 c 75 § 12; 1979 c 16 § 17; 1965 c 53 § 33.]

23A.08.400 Executive and other committees. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the full board of directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the articles of incorporation or the bylaws of the corporation, shall have and may exercise all the authority of the board of directors, except that no such committee shall have the authority to: (1) Authorize distributions, except at a rate or in periodic amount determined by the board of directors, (2) approve or recommend to shareholders actions or proposals required by this title to be approved by shareholders, (3) fill vacancies on the board of directors or any committee thereof, (4) amend the bylaws, (5) fix compensation of any director for serving on the board of directors or on any committee, (6) approve a plan of merger, consolidation, or exchange of shares not requiring shareholder approval, or (7) appoint other committees of the board of directors or the members thereof. [1984 c 75 § 13; 1980 c 99 § 7; 1965 c 53 § 43.]

23A.08.420 Distributions to shareholders. (1) Subject to restriction by the articles of incorporation and the limitation in subsection (2) of this section, a board of directors may authorize and the corporation may make distributions to its shareholders.

(2) No distribution may be made if, after giving it effect, either:

(a) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(b) The corporation's total assets would be less than the sum of its total liabilities plus (unless the articles of incorporation permit otherwise) the amount which would be needed to satisfy any shareholder's preferential rights in liquidation were the corporation in liquidation at the time of the distribution.

(3) A board of directors may base a determination that a distribution may be made under subsection (2) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances, or on a fair valuation or other method that is reasonable in the circumstances.

(4) The effect of a distribution under subsection (2) of this section is measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of (i) the date money or other property is transferred or debt is incurred by the corporation; or (ii) the date the shareholder ceases to be a shareholder with respect to the acquired shares; and

(b) In all other cases, as of (i) the date of its authorization if payment occurs within one hundred twenty days after the date of authorization; or (ii) the date of payment if payment occurs more than one hundred twenty days after the date of authorization.

(5) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent provided otherwise by agreement. [1984 c 75 § 14; 1979 c 16 § 23; 1965 c 53 § 45.]

Provisions of this section and other related statutes supersede other applicable statutes: RCW 23A.44.180.

23A.08.430 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

23A.08.450 Liability of directors in certain cases. In addition to any other liabilities, directors shall be liable in the following circumstances unless they comply with the standard provided in RCW 23A.08.343 for the performance of the duties of directors:

(1) Directors of a corporation who vote for or assent to any distribution contrary to the provisions of this title, or contrary to any restrictions contained in the articles of incorporation, shall be liable to the corporation, jointly and severally with all other directors so voting or assenting, for the amount of such distribution in excess of the amount of such distribution which could have been made without a violation of the provisions of this title or the restrictions in the articles of incorporation.

(2) The directors of a corporation who vote for or assent to the making of a loan to an officer or director of the corporation, or the making of any loan secured by shares of the corporation, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof, unless approved by the shareholders as provided in RCW 23A.08.440.

Any director against whom a claim shall be asserted under or pursuant to this section for the making of a distribution and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such distribution, knowing such distribution to have been made in violation of this title, in proportion to the amounts received by them respectively.

Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from any other director who voted for or assented to the action upon which the claim is asserted and who did not comply with the standard provided in this title for the performance of the duties of directors. [1984 c 75 § 15; 1982 c 35 § 11; 1980 c 99 § 8; 1979 c 16 § 24; 1965 c 53 § 48.]

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

23A.08.500 Books, records and minutes. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its shareholders and board of directors; and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders, giving the names and addresses of all shareholders and the number and class of the shares held by each. Any books, records, and minutes may be in

written form or any other form capable of being converted into written form within a reasonable time.

Any person who shall have been a holder of record of shares or of voting trust certificates for shares at least six months immediately preceding his demand or who shall be the holder of record of, or the holder of record of voting trust certificates for, at least five percent of all the outstanding shares of a corporation, upon written demand stating the purpose thereof, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, its relevant books and records of account, minutes and record of shareholders and to make extracts therefrom.

Any officer or agent who, or a corporation which, shall refuse to allow any such shareholder or holder of voting trust certificates, or his agent or attorney, so to examine and make extracts from its books and records of account, minutes, and record of shareholders, for any proper purpose, shall be liable to such shareholder or holder of voting trust certificates in a penalty of ten percent of the value of the shares owned by such shareholder, or in respect of which such voting trust certificates are issued, in addition to any other damages or remedy afforded him by law. It shall be a defense to any action for penalties under this section that the person suing therefor has within two years sold or offered for sale any list of shareholders or of holders of voting trust certificates for shares of such corporation or any other corporation or has aided or abetted any person in procuring any list of shareholders or of holders of voting trust certificates for any such purpose, or has improperly used any information secured through any prior examination of the books and records of account, or minutes, or record of shareholders or of holders of voting trust certificates for shares of such corporation or any other corporation, or was not acting in good faith or for a proper purpose in making his demand.

Nothing herein contained shall impair the power of any court of competent jurisdiction, upon proof by a shareholder or holder of voting trust certificates of proper purpose, irrespective of the period of time during which such shareholder or holder of voting trust certificates shall have been a shareholder of record or a holder of record of voting trust certificates, and irrespective of the number of shares held by him or represented by voting trust certificates held by him, to compel the production for examination by such shareholder of the books and records of account, minutes, and record of shareholders of a corporation.

Upon the written request of any shareholder or holder of voting trust certificates of a corporation, each corporation shall provide to such shareholder or holder of voting trust certificates the financial statements for its most recent fiscal year including at least a balance sheet as of the end of such fiscal year and a statement of income for such fiscal year. If, for any purpose, the corporation, or the corporation and one or more of its subsidiaries, prepares financial statements for such fiscal year on the basis of generally accepted accounting principles, it shall provide a copy of those statements to any shareholder or holder of voting trust certificates who requests them. In

the case of statements audited by a public accountant, each copy shall be accompanied by a report setting forth the accountant's opinion thereon; in other cases, each copy shall be accompanied by a statement of the president or the person in charge of the corporation's financial accounting records: (1) Stating that person's reasonable belief as to whether or not the financial statements were prepared in accordance with generally accepted accounting principles and, if not, describing the basis of presentation; and (2) describing any respects in which the financial statements were not prepared on a basis consistent with those prepared for the previous year. If a corporation fails to provide the financial statements to any shareholder requesting them pursuant to this section, in any action to compel a corporation to provide such statements, the costs and expenses of any such proceeding (including reasonable fees and expenses for counsel for any such shareholder) shall be determined by the court and may be assessed by the court in its discretion on any corporation which fails to provide such statements or on one or more officers of the corporation. This shall be in addition to any other damages or remedies afforded by law. [1984 c 75 § 16; 1979 c 16 § 26; 1965 c 53 § 53.]

Chapter 23A.12 FORMATION OF CORPORATIONS

Sections

23A.12.020 Articles of incorporation.
23A.12.035 Filing false statements—Penalty.

23A.12.020 Articles of incorporation. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated term of years.
- (3) The purpose or purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this title.
- (4) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value.
- (5) If all or any portion of the shares have no par value, the aggregate value of those shares, or, such aggregate value shall be stated in the statement filed pursuant to RCW 23A.40.050.
- (6) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class.
- (7) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the

relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series.

(8) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.

(9) The address of its initial registered office and the name of its initial registered agent at such address.

(10) The number of directors constituting the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify.

(11) The name and address of each incorporator.

In addition to the provisions required under this section, the articles of incorporation may also contain provisions not inconsistent with law regarding:

(a) The direction of the management of the business and the regulation of the affairs of the corporation;

(b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the shareholders, or any class of the shareholders, including restrictions on the transfer of shares; and

(c) Any provision which under this title is required or permitted to be set forth in the bylaws.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this title. [1984 c 75 § 17; 1982 c 35 § 14; 1979 c 16 § 27; 1965 c 53 § 55.]

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

23A.12.035 Filing false statements—Penalty. See RCW 43.07.210.

Chapter 23A.16 AMENDMENT

Sections

23A.16.020 Procedure to amend articles of incorporation.
23A.16.040 Articles of amendment.
23A.16.090 through 23A.16.130 Repealed.

23A.16.020 Procedure to amend articles of incorporation. Amendments to the articles of incorporation shall be made in the following manner:

- (1) The board of directors shall adopt a resolution setting forth the proposed amendment and, if shares have been issued, directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting. If no shares have been issued, the amendment shall be adopted by resolution of the board of directors and the provisions for adoption by shareholders shall not apply. If the corporation has only one class of shares outstanding, an amendment solely to provide, change, or eliminate any provision with respect to the par value of any class of shares, or solely to change the number of authorized shares to effectuate a

split of, or stock dividend in, the corporation's own shares, or solely to do so and to change the number of authorized shares in proportion thereto, may be adopted by the board of directors; and the provisions for adoption by shareholders shall not apply, unless otherwise provided by the articles of incorporation. The resolution may incorporate the proposed amendment in restated articles of incorporation which contain a statement that except for the designated amendment the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation together with the designated amendment supersede the original articles of incorporation and all amendments thereto.

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in this title for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.

(3) At such meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of the holders of two-thirds of the shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

Any number of amendments may be submitted to the shareholders, and voted upon by them, at one meeting. [1984 c 75 § 18; 1979 c 16 § 30; 1965 c 53 § 61.]

23A.16.040 Articles of amendment. The articles of amendment shall be executed in duplicate by the corporation by one of its officers, and shall set forth:

- (1) The name of the corporation.
- (2) The amendment so adopted.
- (3) The date of the adoption of the amendment by the shareholders, or by the board of directors where RCW 23A.16.020 authorizes amendment without shareholder approval.
- (4) The number of shares outstanding, and the number of shares entitled to vote thereon, and if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon of each such class.
- (5) The number of shares voted for and against such amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment, respectively.
- (6) If such amendment provides for an exchange, reclassification, or cancellation of issued shares, and if the manner in which the same shall be effected is not set

forth in the amendment, then a statement of the manner in which the same shall be effected.

(7) If such amendment effects a change in the amount of the corporation's authorized capital stock, then a statement of the manner in which the same is effected and a statement, expressed in dollars, of the amount of the authorized capital stock as changed by such amendment. [1984 c 75 § 19; 1982 c 35 § 17; 1979 c 16 § 31; 1977 ex.s. c 193 § 5; 1965 c 53 § 63.]

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

Unauthorized signature on document filed with secretary of state—Penalty: RCW 23A.44.010.

23A.16.090 through 23A.16.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 23A.32

FOREIGN CORPORATIONS

Sections

23A.32.079 Definitions applicable to RCW 23A.32.073, 23A.32.075, and 23A.32.077.

False statements, penalty for filing: RCW 43.07.210.

23A.32.079 Definitions applicable to RCW 23A.32.073, 23A.32.075, and 23A.32.077. For the purposes of RCW 23A.32.073, 23A.32.075, and 23A.32.077, the term or terms:

- (1) "Stock" means shares.
- (2) "Capital" and "capital stock" and "authorized capital stock" mean the sum of (a) the par value of all shares of the corporation having a par value that the corporation is authorized to issue, and (b) the amount expected to be allocated to stated capital out of the amount of the consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.
- (3) "Capitalization" means stated capital.
- (4) "Value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock" and "value of the assets represented by nonpar shares" mean the amount expected to be allocated to stated capital out of the amount of consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.
- (5) "Value of the assets received in consideration of the issuance of such nonpar value stock" means the stated capital represented by the nonpar value shares issued by the corporation.
- (6) "The number of shares of capital stock of the company" means the number of shares of the corporation. [1984 c 75 § 20.]

Chapter 23A.40
FEES AND CHARGES

Sections

- 23A.40.020 Fees for filing documents and issuing certificates.
23A.40.037 Definitions applicable to RCW 23A.40.040, 23A.40-.050, and 23A.40.060.

23A.40.020 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

- (1) Filing articles of amendment or supplemental articles and issuing a certificate of amendment, twenty-five dollars;
- (2) Filing restated articles of incorporation, twenty-five dollars;
- (3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, twenty-five dollars;
- (4) Filing an application to reserve a corporate name, ten dollars;
- (5) Filing a notice of transfer of a reserved corporate name, five dollars;
- (6) Filing a statement of change of address of registered office, revocation, resignation, change of registered agent, affidavit of nonappointment, or any combination of these, five dollars. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the filing of the annual report;
- (7) Filing a statement of the establishment of a series of shares, ten dollars;
- (8) Filing a statement of cancellation of shares, ten dollars;
- (9) Filing a statement of intent to dissolve, no fee;
- (10) Filing a statement of revocation of voluntary dissolution proceedings, no fee;
- (11) Filing articles of dissolution, no fee;
- (12) Filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, twenty-five dollars;
- (13) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;
- (14) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, twenty-five dollars;
- (15) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee;
- (16) Filing an annual report, five dollars, but a separate fee for filing such report shall not be charged for an annual report filed in conjunction with and part of the same forms or billing for the annual license renewal;
- (17) Filing any other statement or report, ten dollars;
- (18) Such other filings as are provided for by this title. [1984 c 75 § 21; 1982 c 35 § 58; 1981 c 230 § 3; 1980 c 99 § 13; 1971 ex.s. c 133 § 3; 1969 ex.s. c 83 § 3; 1967 c 190 § 7; 1965 c 53 § 135.]

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

Effective date—1980 c 99: See note following RCW 23A.40.032.

23A.40.037 Definitions applicable to RCW 23A.40-.040, 23A.40.050, and 23A.40.060. For the purposes of RCW 23A.40.040, 23A.40.050, and 23A.40.060, the term or terms:

- (1) "Stock" means shares.
- (2) "Capital" and "capital stock" and "authorized capital stock" mean the sum of (a) the par value of all shares of the corporation having a par value that the corporation is authorized to issue, and (b) the amount expected to be allocated to stated capital out of the amount of the consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.
- (3) "Capitalization" means stated capital.
- (4) "Value of the assets received and to be received by such corporation in return for the issuance of its nonpar value stock" and "value of the assets represented by nonpar shares" mean the amount expected to be allocated to stated capital out of the amount of consideration expected to be received by the corporation in return for the issuance of all the shares without par value which the corporation is authorized to issue.
- (5) "Value of the assets received in consideration of the issuance of such nonpar value stock" means the stated capital represented by the nonpar value shares issued by the corporation.
- (6) "The number of shares of capital stock of the company" means the number of shares of the corporation. [1984 c 75 § 22.]

Chapter 23A.44
MISCELLANEOUS PROVISIONS

Sections

- 23A.44.180 Provisions of RCW 23A.08.420 and related sections supersede other applicable statutes.

23A.44.180 Provisions of RCW 23A.08.420 and related sections supersede other applicable statutes. In circumstances to which RCW 23A.08.420 and related sections of this title are applicable, such provisions supersede the applicability of any other statutes of this state with respect to the legality of distributions. [1984 c 75 § 23.]

Chapter 23A.98
CONSTRUCTION

Sections

- 23A.98.030 No impairment of state obligation as evidenced by bonds.

23A.98.030 No impairment of state obligation as evidenced by bonds. Nothing contained in this title as now

or hereafter amended shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections (2) and (12) of RCW 23A.40.020, subsections (1) and (2) of RCW 23A.40.030, and RCW 23A.40.040, 23A.40.050, 23A.40.060, 23A.40.070, 23A.40.080, 23A.40.090, 23A.32.073 and 23A.32.075 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. [1984 c 75 § 24; 1982 c 35 § 71; 1979 c 16 § 59; 1965 c 53 § 165.]

Reviser's note: "chapter 70, Laws of 1937, as amended" imposing corporation fees and penalties was codified in chapters 23.52 and 23.60 RCW, which chapters were subsequently repealed by 1965 c 53.

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

Outdoor recreation bonds: Chapter 43.98 RCW.

Title 24

CORPORATIONS AND ASSOCIATIONS (NONPROFIT)

Chapters

24.03 Washington nonprofit corporation act.

Contribution of corporate funds, public, charitable, etc., purposes: RCW 23A.08.020(14).

False statements, penalty for filing: RCW 43.07.210.

Chapter 24.03

WASHINGTON NONPROFIT CORPORATION ACT

Sections

24.03.027 Filing false statements—Penalty.

24.03.027 Filing false statements—Penalty. See RCW 43.07.210.

Title 25

PARTNERSHIPS

Chapters

25.04 General partnerships.

Chapter 25.04

GENERAL PARTNERSHIPS

Sections

25.04.020 Definition of terms. (Effective January 1, 1985.)
25.04.150 Nature of partner's liability. (Effective January 1, 1985.)

25.04.020 Definition of terms. (Effective January 1, 1985.) In this chapter:

"Court" includes every court and judge having jurisdiction in the case;

"Business" includes every trade, occupation, or profession;

"Person" includes individuals, trustees and personal representatives, partnerships, corporations, and other associations;

"Bankrupt" includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act;

"Conveyance" includes every assignment, lease, mortgage, or encumbrance;

"Real property" includes land and any interest or estate in land. [1984 c 149 § 171; 1955 c 15 § 25.04.020. Prior: 1945 c 137 § 2; Rem. Supp. 1945 § 9975-41.]

Severability—Effective date—1984 c 149: See notes following RCW 11.02.005.

25.04.150 Nature of partner's liability. (Effective January 1, 1985.) All partners are liable:

(1) Jointly and severally for everything chargeable to the partnership under RCW 25.04.130 and 25.04.140; and

(2) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract;

(3) Except that the liability of a trustee or personal representative acting as a partner is limited as provided in RCW 11.98.110(2). [1984 c 149 § 172; 1955 c 15 § 25.04.150. Prior: 1945 c 137 § 15; Rem. Supp. 1945 § 9975-54.]

Severability—Effective date—1984 c 149: See notes following RCW 11.02.005.

Title 26

DOMESTIC RELATIONS

Chapters

26.04 Marriage.

26.09 Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.

26.18 Child support.

26.20 Family abandonment or nonsupport.

26.21 Uniform reciprocal enforcement of support act.

26.26 Uniform parentage act.

26.27 Uniform child custody jurisdiction act.

26.32 Adoption.

26.33 Adoption. (Effective January 1, 1985.)

26.36 Child agencies.

26.37 Protection of orphan, homeless, or neglected children.

26.44 Abuse of children and adult dependent persons—Protection—Procedure.

26.50 Domestic violence prevention.

**Chapter 26.04
MARRIAGE**

Sections

26.04.050 Who may solemnize.

26.04.050 Who may solemnize. The following named officers and persons are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, any regularly licensed or ordained minister or any priest of any church or religious denomination, and judges of courts of limited jurisdiction as defined in RCW 3.02-.010. [1984 c 258 § 95; 1983 c 186 § 1; 1971 c 81 § 69; 1913 c 35 § 1; 1890 p 98 § 1; 1883 p 43 § 1; Code 1881 § 2382; 1866 p 82 § 4; 1854 p 404 § 4; RRS § 8441.]

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

Chapter 26.09

DISSOLUTION OF MARRIAGE—LEGAL SEPARATION—DECLARATIONS CONCERNING VALIDITY OF MARRIAGE

Sections

26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Support debts, notice.
 26.09.105 Child support—Health insurance coverage—Conditions.
 26.09.135 Order or decree for child support—Notice of mandatory wage assignment—Social security number.
 26.09.180 Child custody proceeding—Commencement—Notice—Intervention.
 26.09.255 Child custody—Action by relative.
 26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.

Child support: Chapter 26.18 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Support debts, notice. (1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the

usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

(5) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

(8) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding. [1984 c 263 § 26; 1983 1st ex.s. c 41 § 1; 1983 c 232 § 10; 1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1983 1st ex.s. c 41: "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 41 § 46.]

Severability—1983 c 232: See note following RCW 9.41.010.

Arrest without warrant in domestic violence cases: RCW 10.31.100(2).

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

26.09.105 Child support—Health insurance coverage—Conditions. In entering or modifying a support order under this chapter, the court shall require a parent owing an obligation of child support to maintain or provide health insurance coverage for any dependent child if all of the following conditions are met:

(1) Health insurance that can be extended to cover the child is available to the obligor parent through an employer or other organization;

(2) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child; and

(3) The custodial parent does not have health insurance available through an employer or other organization at no or reduced cost that covers the child.

An obligor parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the obligor parent receives direct payment from an insurer. [1984 c 201 § 1.]

26.09.135 Order or decree for child support—Notice of mandatory wage assignment—Social security

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number. Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree. [1984 c 260 § 21.]

Severability—1984 c 260: See RCW 26.18.900.

26.09.180 Child custody proceeding—Commencement—Notice—Intervention. (1) Except as authorized for proceedings brought under chapter 26.50 RCW in district or municipal courts, a child custody proceeding is commenced in the superior court:

(a) By a parent:

(i) By filing a petition for dissolution of marriage, legal separation or declaration of invalidity; or

(ii) By filing a petition seeking custody of the child in the county where the child is permanently resident or where he is found; or

(b) By a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where he is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties. [1984 c 263 § 27; 1973 1st ex.s. c 157 § 18.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

26.09.255 Child custody—Action by relative. A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative who, with intent to deny access to a child by another relative of the child who has a right to physical custody of the child, takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees. [1984 c 95 § 6.]

Severability—1984 c 95: See note following RCW 9A.40.060.

26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity. (1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or

of a provision excluding the person from the residence is a misdemeanor.

(2) A person is deemed to have notice of a restraining order if:

(a) The person to be restrained or the person's attorney signed the order;

(b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;

(c) The order was served upon the person to be restrained; or

(d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

(a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or

(b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or excluding the person from the residence.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice. [1984 c 263 § 28; 1974 ex.s. c 99 § 1.]

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

**Chapter 26.18
CHILD SUPPORT**

Sections

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26.18.900	Severability—1984 c 260.

Award in lieu of homestead subject to debts for child support or spousal maintenance: RCW 11.52.010.

Family abandonment, penalty: RCW 26.20.030.

Family nonsupport, penalty: RCW 26.20.035.

Homestead subject to execution for child support or spousal maintenance: RCW 6.12.100.

26.18.010 Legislative findings. The legislature finds that there is an urgent need for vigorous enforcement of child support obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW. [1984 c 260 § 1.]

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

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(3) "Obligee" means the custodian of a dependent child, or person or agency, to whom a duty of support is owed, or the person or agency to whom the right to receive or collect support has been assigned.

(4) "Obligor" means the person owing a duty of support.

(5) "Support order" means any judgment, decree, or order of support issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(6) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings to the obligor.

(7) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other

process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(8) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. [1984 c 260 § 2.]

26.18.030 Application—Liberal construction. (1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after June 7, 1984, and regardless of the past or current marital status of the parents.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported. [1984 c 260 § 3.]

26.18.035 Other civil and criminal remedies applicable. Nothing in this chapter limits the authority of the attorney general or prosecuting attorney to use any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives public assistance payments. [1984 c 260 § 24.]

26.18.040 Support proceedings—Commencement—Venue—Who may file—Jurisdiction. (1) A proceeding to enforce a duty of support is commenced:

- (a) By filing a petition for an original action; or
- (b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including arrearages, with respect to the dependent child have been satisfied. [1984 c 260 § 4.]

26.18.050 Contempt action—Petition or motion—Order to show cause—Bench warrant—Findings—Penalties. (1) A petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action if an obligor fails to comply with a support order. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be

granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the court finds, after hearing, that the obligor failed to comply with the support order previously entered and that the obligor has not established that he or she was unable to comply with the order, the court shall find the obligor in contempt of court. Contempt under this section is punishable by imprisonment in the county jail for a term of up to one hundred eighty days. The court may suspend all or a part of the sentence upon terms that are reasonably likely to result in compliance with the support order.

(5) If the obligor contends at the hearing that he or she lacked the means to comply with the support order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or herself able to comply with the court's order. [1984 c 260 § 5.]

26.18.060 Mandatory wage assignment—Statement in court order or decree—Notice. (1) Every court order or decree establishing a child support obligation or duty of support shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee may seek a mandatory wage assignment without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order.

(2) If the support order under which the obligor owes the duty of support is not in compliance with subsection (1) of this section or if the obligee cannot show that the obligor has approved or received a copy of the court order or decree that complies with subsection (1) of this section, then notice shall be provided to the obligor at least fifteen days prior to the obligee seeking a mandatory wage assignment. The notice shall state that, if a child support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee may seek a mandatory wage assignment without further notice to the obligor. Service of the notice shall be by personal service, or by any form of mail requiring a return receipt. The notice requirement under this subsection is not jurisdictional. [1984 c 260 § 6.]

26.18.070 Mandatory wage assignment—Petition or motion. (1) A petition or motion seeking a mandatory wage assignment in an action under RCW 26.18.040 may be filed by an obligee if the obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month. The petition or motion shall include a sworn

statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

(a) That the obligor, stating his or her name and residence, is more than fifteen days past due in child support payments in an amount equal to or greater than the support payable for one month;

(b) A description of the terms of the support order requiring payment of support, and the amount past due;

(c) The name and address of the obligor's employer;

(d) That notice has been provided to the obligor as required by RCW 26.18.060; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(2) If the court in which a mandatory wage assignment is sought does not already have a copy of the support order in the court file, then the obligee shall attach a copy of the support order to the petition or motion seeking the wage assignment. [1984 c 260 § 7.]

26.18.080 Wage assignment order—Issuance.

Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with RCW 26.18.070, the court shall issue a wage assignment order, as provided in RCW 26.18.100 and including the information required in RCW 26.18.090(1), directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with RCW 26.18.120 within twenty days after service of the order upon the employer. [1984 c 260 § 8.]

26.18.090 Wage assignment order—Contents—Amounts—Apportionment of disbursements. (1) The wage assignment order in RCW 26.18.080 shall include:

(a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 7.33.280 do not apply to wage assignments for child support authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the

attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute. [1984 c 260 § 9.]

26.18.100 Wage assignment order—Form. The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

.....
....., Obligee No.
vs.
....., WAGE ASSIGNMENT
Obligor ORDER
....., Employer
THE STATE OF WASHINGTON TO:
AND TO:
Obligor

The above-named obligee claims that the above-named obligor is more than fifteen days past due in child support payments in an amount equal to or greater than the child support payable for one month. The amount of the accrued child support debt as of this date is dollars, the amount of arrearage payments specified in the support order (if applicable) is dollars per, and the amount of the current and continuing support obligation under the support order is dollars per

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support debt and the current support obligation;

(b) The sum of the specified arrearage payment amount and the current support obligation; or

(c) Fifty percent of the disposable earnings of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

You shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by

the court that the wage assignment has been modified or terminated. You shall promptly notify the court if and when the employee is no longer employed by you.

You shall deliver the withheld earnings to the clerk of the court that issued this wage assignment order at each regular pay interval, but the first delivery shall occur no sooner than twenty days after your receipt of this wage assignment order.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR OBLIGOR'S CLAIMED SUPPORT DEBT TO THE OBLIGEE OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.

DATED THIS ___ day of ___, 19 ____

..... Judge/Court Commissioner or obligee's attorney

[1984 c 260 § 10.]

26.18.110 Wage assignment order—Employer's answer, duties, and liability—Priority. (1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings from the employer, whether the employer will honor the wage assignment order, and whether there are multiple child support attachments against the obligor.

(2) If the employer possesses any earnings due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the clerk of the court that issued the wage assignment order at each regular pay interval, but the first delivery shall occur no sooner than twenty days after receipt of the wage assignment order.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings of the obligor until notified by the court that the wage assignment has been modified or terminated. The employer shall promptly notify the court when the employee is no longer employed.

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(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the superior court clerk; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable for the amounts disbursed to the obligor in violation of the wage assignment order, and may be found by the court to be in contempt of court and may be punished as provided by law.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. A person who violates this subsection may be found by the court to be in contempt of court and may be punished as provided by law.

(9) An employer may combine amounts withheld from various employees into a single payment to the superior court clerk, if the payment includes a listing of the amounts attributable to each employee and other information as required by the clerk.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible. [1984 c 260 § 11.]

26.18.120 Wage assignment order—Employer's answer—Form. The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

..... No.
Obligee vs. ANSWER TO WAGE ASSIGNMENT ORDER
Obligor
..... Employer

1. At the time of the service of the wage assignment order on the employer, was the above-named obligor employed by or receiving earnings from the employer?

Yes No (check one).

2. Are there any other attachments for child support currently in effect against the obligor?

Yes No (check one).

3. If the answer to question one is yes and the employer cannot comply with the wage assignment order, provide an explanation:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signature of employer Date and place

Signature of person answering for employer Address for future notice to employer

Connection with employer [1984 c 260 § 12.]

26.18.130 Wage assignment order—Service. (1) Service of the wage assignment order on the employer is invalid unless it is served with four answer forms in substantial conformance with RCW 26.18.120, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the obligee's attorney or the obligee, and the obligor. The obligee shall also include an extra copy of the wage assignment order for the employer to deliver to the obligor. Service on the employer shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the wage assignment order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the wage assignment order to the obligor at the obligor's last known post office address; or, in the alternative, a copy of the wage assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the employer. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the wage assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has suffered substantial injury due to the failure to mail or serve the copy. [1984 c 260 § 13.]

26.18.140 Hearing to quash, modify, or terminate wage assignment order—Grounds. In a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or

terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect. [1984 c 260 § 14.]

26.18.150 Bond or other security. (1) In any action to enforce a support order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child to post a bond or other security with the court. The bond or other security shall be in the amount of support due for a two-year period. The bond or other security is subject to approval by the court. The bond shall include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the parent obligated to pay support fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court. [1984 c 260 § 15.]

26.18.160 Costs. In any action to enforce a support order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question. [1984 c 260 § 25.]

26.18.900 Severability—1984 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. [1984 c 260 § 43.]

Chapter 26.20

FAMILY ABANDONMENT OR NONSUPPORT

(Formerly: Family desertion)

Sections 26.20.030 Family abandonment—Penalty. 26.20.035 Family nonsupport—Penalty. 26.20.050 Repealed. 26.20.080 Proof of wilfulness—Application of penalty provisions.

Child support: Chapter 26.18 RCW.

26.20.030 Family abandonment—Penalty. (1) Any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) The crime of family abandonment is a class C felony under chapter 9A.20 RCW. [1984 c 260 § 26; 1973

1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Leaving children unattended in parked automobile: RCW 9.91.060.

26.20.035 Family nonsupport—Penalty. (1) Any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse, is guilty of the crime of family nonsupport.

(2) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW. [1984 c 260 § 27.]

Severability—1984 c 260: See RCW 26.18.900.

26.20.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.20.080 Proof of wilfulness—Application of penalty provisions. Proof of the nonsupport of a spouse or of a child or children, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a spouse, or for a child or children, is prima facie evidence that the nonsupport or omission to furnish food, clothing, shelter, or medical attendance is wilful. The provisions of RCW 26.20.030 and 26.20.035 are applicable regardless of the marital status of the person who has a child dependent upon him or her, and regardless of the nonexistence of any decree requiring payment of support or maintenance. [1984 c 260 § 28; 1973 1st ex.s. c 154 § 36; 1913 c 28 § 3; RRS § 6910. Formerly RCW 26.20.080 and 26.20.090.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 26.21

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

Sections

26.21.125 Orders—Notice of mandatory wage assignment—Social security number.

Child support: Chapter 26.18 RCW.

26.21.125 Orders—Notice of mandatory wage assignment—Social security number. Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor. Failure to include this provision does not affect

the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree. [1984 c 260 § 22.]

Severability—1984 c 260: See RCW 26.18.900.

Chapter 26.26

UNIFORM PARENTAGE ACT

Sections

26.26.090 Parties.
26.26.100 Blood tests.
26.26.110 Evidence relating to paternity.
26.26.120 Civil action—Testimony—Evidence—Jury.
26.26.132 Support orders—Notice of mandatory wage assignment—Social security number.
26.26.140 Costs.

Arrest without warrant in domestic violence cases: RCW 10.31.100.

Child support: Chapter 26.18 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

26.26.090 Parties. (1) The child shall be made a party to the action. If the child is a minor, the child shall be represented by the child's general guardian or a guardian ad litem appointed by the court subject to RCW 74.20.310. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under RCW 26.26.040, and a man or men alleged to be the natural father shall be made parties or, if not subject to the jurisdiction of the court, shall, if possible, be given actual notice of the action and an opportunity to be heard in a manner as the court may prescribe.

(2) Any party may cause to be joined as additional parties other men alleged to be the father of the child or any other person necessary for a full adjudication of the issues.

(3) The failure or inability to join as a party an alleged or presumed father does not deprive the court of jurisdiction to adjudicate some or all of the issues based on the evidence and parties available to it.

(4) If more than one party is alleged to be the father of the child, the default of a party shall not preclude the court from finding any other party to be the father of the child. [1984 c 260 § 31; 1983 1st ex.s. c 41 § 6; 1975-'76 2nd ex.s. c 42 § 10.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.100 Blood tests. (1) The court may, and upon request of a party shall, require the child, mother, and any alleged father who has been made a party to submit to blood tests. If an alleged father objects to a proposed order requiring him to submit to paternity blood tests, the court may require the party making the allegation of possible paternity to provide sworn testimony, by affidavit or otherwise, stating the facts upon which the allegation is based. The court shall order blood tests if it

appears that a reasonable possibility exists that the requisite sexual contact occurred. The tests shall be performed by an expert in paternity blood testing appointed by the court. The expert's verified report identifying the blood characteristics observed is admissible in evidence in any hearing or trial in the parentage action, if (a) the alleged or presumed father has had the opportunity to gain information about the security, validity, and interpretation of the tests and the qualifications of any experts, and (b) the report is accompanied by an affidavit from the expert which describes the expert's qualifications as an expert and analyzes and interprets the results. Verified documentation of the chain of custody of the blood samples tested is admissible to establish the chain of custody. The court may consider published sources as aids to interpretation of the test results.

(2) The court, upon request by a party, shall order that additional blood tests be performed by the same or other experts qualified in paternity blood testing, if the party requesting additional tests advances the full costs of the additional testing within a reasonable time. The court may order additional testing without requiring that the requesting party advance the costs only if another party agrees to advance the costs or if the court finds, after hearing, that (a) the requesting party is indigent, and (b) the laboratory performing the initial tests recommends additional testing or there is substantial evidence to support a finding as to paternity contrary to the initial blood test results. The court may later order any other party to reimburse the party who advanced the costs of additional testing for all or a portion of the costs.

(3) In all cases, the court shall determine the number and qualifications of the experts. [1984 c 260 § 32; 1983 1st ex.s. c 41 § 7; 1975-'76 2nd ex.s. c 42 § 11.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

26.26.110 Evidence relating to paternity. Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) An expert's opinion concerning the impossibility or the statistical probability of the alleged father's paternity based upon blood test results;

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(5) All other evidence relevant to the issue of paternity of the child. [1984 c 260 § 33; 1975-'76 2nd ex.s. c 42 § 12.]

Severability—1984 c 260: See RCW 26.18.900.

26.26.120 Civil action—Testimony—Evidence—Jury. (1) An action under this chapter is a civil action governed by the rules of civil procedures. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence of any other kind on the ground that the witness may be incriminated thereby, and if a prosecuting attorney requests the court to order that person to testify or provide the evidence, the court shall then hold a hearing and shall so order, unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order.

If, but for this section, the witness would have been privileged to withhold the answer given or the evidence produced, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination; but the witness shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which the witness has been ordered to testify pursuant to this section. The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) In an action against an alleged father, evidence offered by the alleged father with respect to a man who has not been joined as a party concerning the nonparty's sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the nonparty has undergone and made available to the court blood tests, including the human leukocyte antigen (HLA) test or other tests of comparable exclusionary power, the results of which do not exclude the possibility of the nonparty's paternity of the child.

(5) The trial shall be by the court without a jury. [1984 c 260 § 34; 1975-'76 2nd ex.s. c 42 § 13.]

Severability—1984 c 260: See RCW 26.18.900.

26.26.132 Support orders—Notice of mandatory wage assignment—Social security number. Every court order or decree establishing a child support obligation shall state that, if a support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month, the obligee of the support payments may seek a mandatory wage assignment under chapter 26.18 RCW without prior notice to the obligor. Failure to include this provision does not affect the validity of the support order. If the social security number of the person obligated to make child support payments under the support order or decree is available, the court shall require that the social security number of the obligor be included in the order or decree. [1984 c 260 § 23.]

Severability—1984 c 260: See RCW 26.18.900.

26.26.140 Costs. The court may order reasonable fees of experts and the child's guardian ad litem, and other costs of the action, including blood test costs, to be paid by the parties in proportions and at times determined by the court. The court may order that all or a portion of a party's reasonable attorney's fees be paid by another party, except that an award of attorney's fees assessed against the state or any of its agencies or representatives shall be under RCW 4.84.185. [1984 c 260 § 35; 1975-'76 2nd ex.s. c 42 § 15.]

Severability—1984 c 260: See RCW 26.18.900.

Chapter 26.27

UNIFORM CHILD CUSTODY JURISDICTION ACT

Sections

26.27.160 Registry of out-of-state custody decrees and proceedings.

26.27.160 Registry of out-of-state custody decrees and proceedings. (1) The clerk of each superior court shall maintain a registry in which he or she shall enter certified copies of custody decrees of other states received for filing to which the clerk shall assign an individual cause number.

(2) The clerk shall maintain the following at no charge as miscellaneous filings:

(a) Communications as to the pendency of custody proceedings in other states;

(b) Communications concerning a finding of inconvenient forum by a court of another state; and

(c) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding. [1984 c 128 § 7; 1979 c 98 § 16.]

Chapter 26.32

ADOPTION

Sections

26.32.010 through 26.32.310 Repealed. (Effective January 1, 1985.)

26.32.900 through 26.32.916 Repealed. (Effective January 1, 1985.)

26.32.010 through 26.32.310 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

26.32.900 through 26.32.916 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 26.33

ADOPTION

(Effective January 1, 1985)

Sections

26.33.010 Intent. (Effective January 1, 1985.)

26.33.020 Definitions. (Effective January 1, 1985.)

26.33.030 Petitions—Place of filing—Consolidation of petitions and hearings. (Effective January 1, 1985.)

26.33.040 Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required. (Effective January 1, 1985.)

26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof. (Effective January 1, 1985.)

26.33.060 Hearings—Procedure—Witnesses. (Effective January 1, 1985.)

26.33.070 Appointment of guardian ad litem—When required—Payment of fees. (Effective January 1, 1985.)

26.33.080 Petition for relinquishment—Filing—Written consent required. (Effective January 1, 1985.)

26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment. (Effective January 1, 1985.)

26.33.100 Petition for termination—Who may file—Contents—Time. (Effective January 1, 1985.)

26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents. (Effective January 1, 1985.)

26.33.120 Termination—Grounds—Failure to appear. (Effective January 1, 1985.)

26.33.130 Termination order—Effect. (Effective January 1, 1985.)

26.33.140 Who may adopt or be adopted. (Effective January 1, 1985.)

26.33.150 Petition for adoption—Filing—Contents—Preplacement report required. (Effective January 1, 1985.)

26.33.160 Consent to adoption. (Effective January 1, 1985.)

26.33.170 When consent to adoption not required. (Effective January 1, 1985.)

26.33.180 Preplacement report required before placement with adoptive parents—Exception. (Effective January 1, 1985.)

26.33.190 Preplacement report—Requirements—Fees. (Effective January 1, 1985.)

26.33.200 Post-placement report—Requirements—Exception—Fees. (Effective January 1, 1985.)

26.33.210 Preplacement or post-placement report—Department or agency may make report. (Effective January 1, 1985.)

26.33.220 Preplacement and post-placement reports—When not required. (Effective January 1, 1985.)

26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver. (Effective January 1, 1985.)

26.33.240 Petition for adoption—Hearing—Notice—Disposition. (Effective January 1, 1985.)

26.33.250 Decree of adoption—Determination of place and date of birth. (Effective January 1, 1985.)

26.33.260 Decree of adoption—Effect. (Effective January 1, 1985.)

26.33.270 Decree of adoption—Protection of certain rights and benefits. (Effective January 1, 1985.)

26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics. (Effective January 1, 1985.)

26.33.290 Decree of adoption—Duties of state registrar of vital statistics. (Effective January 1, 1985.)

26.33.300 Statistical data concerning adoptions. (Effective January 1, 1985.)

26.33.310 Notice—Requirements—Waiver. (Effective January 1, 1985.)

26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents. (Effective January 1, 1985.)

26.33.330 Records sealed—Inspection only upon court order—Fee. (Effective January 1, 1985.)

26.33.340 Department and agency files confidential—Disclosure of information for medical purposes. (Effective January 1, 1985.)

- 26.33.350 Medical reports—Requirements. (Effective January 1, 1985.)
- 26.33.360 Petition by natural parent to set aside adoption—Costs—Time limit. (Effective January 1, 1985.)
- 26.33.370 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty. (Effective January 1, 1985.)
- 26.33.900 Effective date—Application—1984 c 155.
- 26.33.901 Severability—1984 c 155.

Child selling and child buying, class C felony: RCW 9A.64.030.

Dependent and delinquent children: Title 13 RCW.

Descent and distribution—Adopted children: Chapter 11.04 RCW.

Paternity, determination: Chapter 26.26 RCW.

Welfare agencies for children: Title 13 RCW.

26.33.010 Intent. (Effective January 1, 1985.) The legislature finds that the purpose of adoption is to provide stable homes for children. Adoptions should be handled efficiently, but the rights of all parties must be protected. The guiding principle must be determining what is in the best interest of the child. It is the intent of the legislature that this chapter be used only as a means for placing children in adoptive homes and not as a means for parents to avoid responsibility for their children unless the department, an agency, or a prospective adoptive parent is willing to assume the responsibility for the child. [1984 c 155 § 1.]

26.33.020 Definitions. (Effective January 1, 1985.) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alleged father" means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

(2) "Child" means a person under eighteen years of age.

(3) "Adoptee" means a person who is to be adopted or who has been adopted.

(4) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(5) "Court" means the superior court.

(6) "Department" means the department of social and health services.

(7) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

(8) "Parent" means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

(9) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general

welfare, with the authority and duty to make decisions affecting the child's development.

(10) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(11) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents. [1984 c 155 § 2.]

26.33.030 Petitions—Place of filing—Consolidation of petitions and hearings. (Effective January 1, 1985.) (1) A petition under this chapter may be filed in the superior court of the county in which the petitioner is a resident or of the county in which the adoptee is domiciled.

(2) A petition under this chapter may be consolidated with any other petition under this chapter. A hearing under this chapter may be consolidated with any other hearing under this chapter. [1984 c 155 § 3.]

26.33.040 Petitions—Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required. (Effective January 1, 1985.)

(1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Indian Child Welfare Act does or does not apply.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Soldiers and Sailors Civil Relief Act of 1940 does or does not apply. [1984 c 155 § 4.]

26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions—Burden of proof. (Effective January 1, 1985.) Any consent, relinquishment, or order of termination that would be valid in the jurisdiction in which it was executed or obtained, and which comports with due process of law, is valid in Washington state, but the burden of proof as to validity and compliance is on the petitioner. [1984 c 155 § 5.]

26.33.060 Hearings—Procedure—Witnesses. (Effective January 1, 1985.) All hearings under this chapter shall be heard by the court without a jury. Unless the parties and the court agree otherwise, proceedings of contested hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any

information obtained at the hearing which would identify the individual adoptee or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available. A person who has executed a valid waiver need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing. [1984 c 155 § 6.]

26.33.070 Appointment of guardian ad litem—When required—Payment of fees. (Effective January 1, 1985.) (1) The court shall appoint a guardian ad litem for any parent or alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action.

(2) The county in which a petition is filed shall pay the fees of a guardian ad litem or attorney appointed under this chapter. [1984 c 155 § 7.]

26.33.080 Petition for relinquishment—Filing—Written consent required. (Effective January 1, 1985.) (1) A parent, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. [1984 c 155 § 8.]

26.33.090 Petition for relinquishment—Hearing—Temporary custody order—Notice—Order of relinquishment. (Effective January 1, 1985.) (1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth. The court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition.

(2) Notice of the hearing shall be served on any parent, any alleged father, and the department, agency, or prospective adoptive parent in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. The court shall determine that any written consent has been validly executed. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent. [1984 c 155 § 9.]

26.33.100 Petition for termination—Who may file—Contents—Time. (Effective January 1, 1985.)

(1) A petition for termination of the parent-child relationship of a parent or alleged father who has not executed a written consent to adoption may be filed by:

- (a) The department or an agency; or
- (b) The prospective adoptive parent to whom a child has been or may be relinquished if the prospective adoptive parent has filed or consented to a petition for relinquishment.

(2) The petition for termination of the parent-child relationship shall contain a statement of facts identifying the petitioner, the parents, the legal guardian, a guardian ad litem for a party, any alleged father, and the child. The petition shall state the facts forming the basis for the petition and shall be signed under penalty of perjury or be verified.

(3) The petition may be filed before the child's birth. [1984 c 155 § 10.]

26.33.110 Petition for termination—Time and place of hearing—Notice of hearing and petition—Contents. (Effective January 1, 1985.) (1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth.

(2) Notice of the hearing shall be served on the petitioner, the parents, any alleged father, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310.

(3) The notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged father that: (i) He or she has a right to be represented by

counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child. [1984 c 155 § 11.]

26.33.120 Termination—Grounds—Failure to appear. (Effective January 1, 1985.) (1) The parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) The parent-child relationship of an alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an alleged father may be terminated if the parent or alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310. [1984 c 155 § 12.]

26.33.130 Termination order—Effect. (Effective January 1, 1985.) (1) If the court determines, after a hearing, that the parent-child relationship should be terminated pursuant to RCW 26.33.090 or 26.33.120, the court shall enter an appropriate order terminating the parent-child relationship.

(2) An order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

(3) The parent-child relationship may be terminated with respect to one parent without affecting the parent-child relationship between the child and the other parent.

(4) The parent or alleged father whose parent-child relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent or alleged father any right to contest the adoption or

otherwise to participate in the proceedings unless an appeal from the termination order is pending or unless otherwise ordered by the court. [1984 c 155 § 13.]

26.33.140 Who may adopt or be adopted. (Effective January 1, 1985.) (1) Any person may be adopted, regardless of his or her age or residence.

(2) Any person who is legally competent and who is eighteen years of age or older may be an adoptive parent. [1984 c 155 § 14.]

26.33.150 Petition for adoption—Filing—Contents—Preplacement report required. (Effective January 1, 1985.) (1) An adoption proceeding is initiated by filing with the court a petition for adoption. The petition shall be filed by the prospective adoptive parent.

(2) A petition for adoption shall contain the following information:

(a) The name and address of the petitioner;

(b) The name, if any, gender, and place and date of birth, if known, of the adoptee;

(c) A statement that the child is or is not an Indian child covered by the Indian Child Welfare Act; and

(d) The name and address of the department or any agency, legal guardian, or person having custody of the child.

(3) The written consent to adoption of any person, the department, or agency which has been executed shall be filed with the petition.

(4) The petition shall be signed under penalty of perjury by the petitioner. If the petitioner is married, the petitioner's spouse shall join in the petition.

(5) If a preplacement report prepared pursuant to RCW 26.33.190 has not been previously filed with the court, the preplacement report shall be filed with the petition for adoption. [1984 c 155 § 15.]

26.33.160 Consent to adoption. (Effective January 1, 1985.) (1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:

(a) The adoptee, if fourteen years of age or older;

(b) The parents and any alleged father of an adoptee under eighteen years of age;

(c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and

(d) The legal guardian of the adoptee.

(2) The written consent to adoption shall be signed under penalty of perjury and shall state that:

(a) It is given subject to approval of the court;

(b) It has no force or effect until approved by the court;

(c) The consent will not be presented to the court until forty-eight hours after it is signed;

(d) It is revocable by the consenting party at any time prior to its approval by the court;

(e) A consenting party who seeks to revoke the consent must notify the agency or person who obtained the consent verbally or in writing within forty-eight hours of signing the consent, and, if the initial notice is oral, the party seeking to revoke must mail written notification of

revocation to the clerk of the court no less than forty-eight hours after the oral notice was given;

(f) The address of the clerk of court where the consent will be presented is included; and

(g) After it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency at the time the consent was executed by the person signing the consent. A written consent to adoption shall not be revoked more than one year after it is approved by the court.

(3) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent shall be valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent. [1984 c 155 § 16.]

26.33.170 When consent to adoption not required. (Effective January 1, 1985.) An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines that the proposed adoption is in the best interests of the adoptee and that the refusal to consent to adoption is arbitrary and capricious. [1984 c 155 § 17.]

26.33.180 Preplacement report required before placement with adoptive parents—Exception. (Effective January 1, 1985.) Except as provided in RCW 26.33.220, a child shall not be placed with prospective adoptive parents until a preplacement report has been filed with the court. [1984 c 155 § 18.]

26.33.190 Preplacement report—Requirements—Fees. (Effective January 1, 1985.) (1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent.

(3) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of

the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(4) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(5) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(6) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done. [1984 c 155 § 19.]

26.33.200 Post-placement report—Requirements—Exception—Fees. (Effective January 1, 1985.) (1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190(3). [1984 c 155 § 20.]

26.33.210 Preplacement or post-placement report—Department or agency may make report. (Effective January 1, 1985.) The department or an agency having the custody of a child may make the preplacement or post-placement report on a petitioner for the adoption of that child. [1984 c 155 § 21.]

26.33.220 Preplacement and post-placement reports—When not required. (Effective January 1, 1985.) Unless otherwise ordered by the court, the reports required by RCW 26.33.190 are not required if the petitioner seeks to adopt the child of the petitioner's

spouse. The reports required by RCW 26.33.190 and 26.33.200 are not required if the adoptee is eighteen years of age or older. [1984 c 155 § 22.]

26.33.230 Notice of proceedings at which preplacement reports considered—Contents—Proof of service—Appearance—Waiver. (Effective January 1, 1985.) The petitioner shall give not less than three days written notice of any proceeding at which a preplacement report will be considered to all agencies, any court approved individual, or any court employee requested by the petitioner to make a preplacement report. The notice shall state the name of the petitioner, the cause number of the proceeding, the time and place of the hearing, and the object of the hearing. Proof of service on the agency or court approved individual in form satisfactory to the court shall be furnished. The agency or court approved individual may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency or court approved individual may in writing acknowledge notice and state to the court that the agency or court approved individual does not desire to participate in the hearing or the agency or court approved individual may in writing waive notice of any hearing. [1984 c 155 § 24.]

26.33.240 Petition for adoption—Hearing—Notice—Disposition. (Effective January 1, 1985.) (1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child. [1984 c 155 § 23.]

26.33.250 Decree of adoption—Determination of place and date of birth. (Effective January 1, 1985.) (1) A decree of adoption shall provide, as a minimum, the following information:

(a) The full original name of the person to be adopted;

(b) The full name of each petitioner for adoption;

(c) Whether the petitioner or petitioners are husband and wife, stepparent, or a single parent;

(d) The full new name of the person adopted, unless the name of the adoptee is not to be changed;

(e) Information to be incorporated in any new certificate of birth to be issued by the state or territorial registrar of vital records; and

(f) The adoptee's date of birth and place of birth as determined under subsection (3) of this section.

(2) Except for the names of the person adopted and the petitioner, information set forth in the decree that differs from that shown on the original birth certificate, alternative birth record, or other information used in lieu of such a record shall be included in the decree only upon a clear showing that the information in the original record is erroneous.

(3) In determining the date and place of birth of a person born outside the United States, the court shall:

(a) If available, enter in the decree the exact date and place of birth as stated in the birth certificate from the country of origin or in the United States department of state's report of birth abroad or in the documents of the United States immigration and naturalization service;

(b) If the exact place of birth is unknown, enter in the decree such information as may be known and designate a place of birth in the country of origin;

(c) If the exact date of birth is unknown, determine a date of birth based upon medical testimony as to the probable chronological age of the adoptee and other evidence regarding the adoptee's age that the court finds appropriate to consider;

(d) In any other case where documents of the United States immigration and naturalization service are not available, the court shall determine the date and place of birth based upon such evidence as the court in its discretion determines appropriate. [1984 c 155 § 25.]

26.33.260 Decree of adoption—Effect. (Effective January 1, 1985.) The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent. [1984 c 155 § 26.]

Inheritance by adopted child: RCW 11.04.085.

26.33.270 Decree of adoption—Protection of certain rights and benefits. (Effective January 1, 1985.) An order or decree entered under this chapter shall not disentitle a child to any benefit due the child from any

third person, agency, state, or the United States. Action under this chapter shall not affect any rights and benefits that a native American child derives from the child's descent from a member of an Indian tribe or band. [1984 c 155 § 27.]

26.33.280 Decree of adoption—Transmittal to state registrar of vital statistics. (Effective January 1, 1985.) After a decree of adoption is entered, as soon as the time for appeal has expired, or if an appeal is taken, and the adoption is affirmed on appeal, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of the decree, along with any additional information and fees required by the registrar. [1984 c 155 § 28.]

26.33.290 Decree of adoption—Duties of state registrar of vital statistics. (Effective January 1, 1985.) Upon receipt of a decree of adoption, the state registrar of vital statistics shall:

(1) Return the decree to the court clerk if all information required by RCW 26.33.250 is not included in the decree;

(2) If the adoptee was born in a state other than Washington, or in a territory of the United States, forward the certificate of adoption to the appropriate health record recording agency of the state or territory of the United States in which the birth occurred;

(3) If the adoptee was born outside of the United States or its territories, issue a new certificate of birth by the office of the state registrar of vital statistics which reflects the information contained in the decree. [1984 c 155 § 29.]

Vital statistics: Chapter 70.58 RCW.

26.33.300 Statistical data concerning adoptions. (Effective January 1, 1985.) The department shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department which may compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed. [1984 c 155 § 30.]

26.33.310 Notice—Requirements—Waiver. (Effective January 1, 1985.) (1) Petitions governed by this chapter shall be served in the same manner as a complaint in a civil action under the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on the parent or any identified alleged father, either within or without this state, cannot be given, notice shall be given: (a) By registered mail, mailed at least twenty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the

first publication date at least twenty-five days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(3) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear.

(4) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter. [1984 c 155 § 31.]

26.33.320 Adoption of hard to place children—Court's consideration of state's agreement with prospective adoptive parents. (Effective January 1, 1985.) (1) In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption, the superior court shall consider any agreement made or proposed to be made between the department and any prospective adoptive parent for any payment or payments which have been provided or which are to be provided by the department in support of the adoption of such child. Before the date of the hearing on the petition to adopt, vacate, or modify an adoption decree, the department shall file as part of the adoption file with respect to the child a copy of any initial agreement, together with any changes made in the agreement, or in the related standards.

(2) If the court, in its judgment, finds the provision made in an agreement to be inadequate, it may make any recommendation as it deems warranted with respect to the agreement to the department. The court shall not, however, solely by virtue of this section, be empowered to direct the department to make payment. This section shall not be deemed to limit any other power of the superior court with respect to the adoption and any related matter. [1984 c 155 § 32.]

26.33.330 Records sealed—Inspection only upon court order—Fee. (Effective January 1, 1985.) (1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records. [1984 c 155 § 33.]

26.33.340 Department and agency files confidential—Disclosure of information for medical purposes. (Effective January 1, 1985.) Department and agency files regarding an adoptee shall be confidential except the department or agency may disclose nonidentifying information necessary for medical purposes upon the receipt of a verified written request for the information from the adoptive parent, the adoptee, or the natural parent. [1984 c 155 § 34.]

26.33.350 Medical reports—Requirements. (Effective January 1, 1985.) Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all reasonably available information concerning the mental, physical, and sensory handicaps of the child. The report shall not reveal the identity of the natural parents of the child but shall include any reasonably available mental or physical health history of the natural parents that needs to be known by the adoptive parents to facilitate proper health care for the child. [1984 c 155 § 37.]

26.33.360 Petition by natural parent to set aside adoption —Costs—Time limit. (Effective January 1, 1985.) (1) If a natural parent unsuccessfully petitions to have an adoption set aside, the court shall award costs, including reasonable attorneys' fees, to the adoptive parent.

(2) If a natural parent successfully petitions to have an adoption set aside, the natural parent shall be liable to the adoptive parent for both the actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

(3) A natural parent who has executed a written consent to adoption shall not bring an action to set aside an adoption more than one year after the date the court approved the written consent. [1984 c 155 § 35.]

26.33.370 Permanent care and custody of a child—Assumption, relinquishment, or transfer except by court order or statute, when prohibited—Penalty. (Effective January 1, 1985.) (1) Unless otherwise permitted by court order or statute, it is unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care and custody of a child. Unless otherwise permitted by court order or statute, it is unlawful for any parent to relinquish or transfer to another person, partnership, society, association, or corporation the permanent care and custody of any child for adoption or any other purpose.

(2) Any relinquishment or transfer in violation of this section shall be void.

(3) Violation of this section is a gross misdemeanor. [1984 c 155 § 36.]

26.33.900 Effective date—Application—1984 c 155. This act shall take effect January 1, 1985. Any

proceeding initiated before January 1, 1985, shall be governed by the law in effect on the date the proceeding was initiated. [1984 c 155 § 41.]

26.33.901 Severability—1984 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. [1984 c 155 § 42.]

Chapter 26.36 CHILD AGENCIES

Sections
26.36.010 through 26.36.060 Repealed. (Effective January 1, 1985.)

26.36.010 through 26.36.060 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 26.37 PROTECTION OF ORPHAN, HOMELESS, OR NEGLECTED CHILDREN

Sections
26.37.010 through 26.37.080 Repealed. (Effective January 1, 1985.)

26.37.010 through 26.37.080 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 26.44 ABUSE OF CHILDREN AND ADULT DEPENDENT PERSONS—PROTECTION—PROCEDURE

Sections
26.44.010 Declaration of purpose.
26.44.020 Definitions.
26.44.030 Reports—Duty and authority to make—Duty of receiving agency.
26.44.040 Reports—Oral, written—Contents.
26.44.050 Abuse or neglect of child or adult dependent person—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when.
26.44.070 Central registry of reported cases of child abuse or abuse of adult dependent person—Confidentiality—Penalty.

*Domestic violence prevention: Chapter 26.50 RCW.
Persons over sixty, abuse: Chapter 74.34 RCW.*

26.44.010 Declaration of purpose. The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of non-accidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or

guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: *Provided*, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: *Provided further*, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

Adult dependent persons not able to provide for their own protection through the criminal justice system shall also be afforded the protection offered children through the reporting and investigation requirements mandated in this chapter. [1984 c 97 § 1; 1977 ex.s. c 80 § 24; 1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.020 Definitions. For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: *Provided, however*, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social worker" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social

services to adults or families, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein: *Provided*, That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare, and safety.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons not able to provide for their own protection through the criminal justice system" shall be defined as those persons over the age of eighteen years who have been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter, that such protection is indicated: *Provided*, That no persons reporting injury, abuse, or neglect to an adult dependent person as defined herein shall suffer negative consequences if such a judicial determination of incompetency or disability has not taken place and the person reporting believes in good faith that the adult dependent person has been found legally incompetent pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by state law by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. [1984 c 97 § 2; 1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.030 Reports—Duty and authority to make—Duty of receiving agency. (1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040. The report shall be made at the first opportunity, but in no case longer than seven days after there is reasonable cause to believe that the child or adult has suffered abuse or neglect.

(2) Any other person who has reasonable cause to believe that a child or adult dependent person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040 as now or hereafter amended.

(3) The department upon receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse shall report such incident to the proper law enforcement agency.

(4) Any law enforcement agency receiving a report of an incident of abuse or neglect pursuant to this chapter, involving a child or adult dependent person who has died or has had physical injury or injuries inflicted upon him other than by accidental means, or who has been subjected to sexual abuse, shall report such incident to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime has been committed. [1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Severability—1984 c 97: See RCW 74.34.900.

Severability—1982 c 129: See note following RCW 9A.04.080.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.040 Reports—Oral, written—Contents. An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

(1) The name, address, and age of the child or adult dependent person;

(2) The name and address of the child's parents, step-parents, guardians, or other persons having custody of the child or the residence of the adult dependent person;

(3) The nature and extent of the injury or injuries;

(4) The nature and extent of the neglect;

(5) The nature and extent of the sexual abuse;

(6) Any evidence of previous injuries, including their nature and extent; and

(7) Any other information which may be helpful in establishing the cause of the child's or adult dependent person's death, injury, or injuries and the identity of the perpetrator or perpetrators. [1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

26.44.050 Abuse or neglect of child or adult dependent person—Duty of law enforcement agency or department of social and health services—Taking child into custody without court order, when. Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. Notwithstanding the provisions of RCW 13.04.130 as now or hereafter amended, the law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child or adult dependent person for the purpose of providing documentary evidence of the physical condition of the child or disabled person. [1984 c 97 § 5; 1981 c 164 § 3; 1977 ex.s. c 291 § 51; 1977 ex.s. c 80 § 28; 1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

Severability—1984 c 97: See RCW 74.34.900.

Effective dates—Severability—1977 ex.s. c 291: See notes following RCW 13.04.005.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

26.44.070 Central registry of reported cases of child abuse or abuse of adult dependent person—Confidentiality—Penalty. The department shall maintain a central registry of reported cases of child abuse or abuse of an adult dependent person and shall adopt such rules and regulations as necessary in carrying out the provisions of this section. Records in the central registry shall be considered confidential and privileged and will not be available except upon court order to any person or agency except (1) law enforcement agencies as defined in this chapter in the course of an investigation of alleged abuse or neglect; (2) protective services workers or juvenile court personnel who are investigating reported incidents of abuse or neglect; (3) department of social and health services personnel who are investigating the character and/or suitability of an agency and other persons who are applicants for licensure, registration, or

certification, or applicants for employment with such an agency or persons, or under contract to or employed by an agency or persons directly responsible for the care and treatment of children, expectant mothers, or adult dependent persons pursuant to chapter 74.15 RCW; (4) department of social and health services personnel who are investigating the character or suitability of any persons with whom children may be placed under the interstate compact on the placement of children, chapter 26.34 RCW; (5) physicians who are treating the child or adult dependent person or family; (6) any child or adult dependent person named in the registry who is alleged to be abused or neglected, or his or her guardian ad litem and/or attorney; (7) a parent, guardian, or other person legally responsible for the welfare and safety of the child or adult dependent person named in the registry; (8) any person engaged in a bona fide research purpose, as determined by the department, according to rules and regulations, provided that information identifying the persons of the registry shall remain privileged; and (9) any individual whose name appears on the registry shall have access to his own records. Those persons or agencies exempted by this section from the confidentiality of the records of the registry shall not further disseminate or release such information so provided to them and shall respect the confidentiality of such information, and any violation of this section shall constitute a misdemeanor. [1984 c 97 § 6; 1981 c 164 § 4; 1977 ex.s. c 80 § 29; 1975 1st ex.s. c 217 § 7; 1972 ex.s. c 46 § 1; 1969 ex.s. c 35 § 6.]

Severability—1984 c 97: See RCW 74.34.900.

Purpose—**Intent**—**Severability**—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 26.50

DOMESTIC VIOLENCE PREVENTION

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Dissolution of marriage: Chapter 26.09 RCW.

Domestic violence, official response: Chapter 10.99 RCW.

Shelters for victims of domestic violence: Chapter 70.123 RCW.

Simple assault—Three offenses against family member class C felony: RCW 9A.36.040.

26.50.010 Definitions. As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (b) sexual assault of one family or household member by another.

(2) "Family or household members" means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together, or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(3) "Court" includes the superior, district, and municipal courts of the state of Washington.

(4) "Judicial day" does not include Saturdays, Sundays, or legal holidays. [1984 c 263 § 2.]

Domestic violence offenses defined: RCW 10.99.020.

26.50.020 Commencement of action—Jurisdiction—Venue. (1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(2) The courts defined in RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. If a proceeding under chapter 26.09, 26.12, or 26.26 RCW is commenced in a superior court before or after the filing of an action in a district or municipal court under this chapter, then the superior court shall have exclusive jurisdiction over proceedings under this chapter. Any municipal or district court order entered while that court had jurisdiction remains valid until superseded by a superior court order.

(3) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(4) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(5) If an action under this chapter is commenced in a district or municipal court and a petitioner or respondent contests custody or visitation rights, then, upon the motion of either party containing proof that the petition for relief under this chapter has been filed with the superior court, the district or municipal court shall dismiss the action. [1984 c 263 § 3.]

26.50.030 Petition for an order for protection—Availability of forms and instructional brochures—Filing fee—Bond not required. There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) All court clerk's offices shall make available simplified forms and instructional brochures. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) A filing fee of twenty dollars shall be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section. [1984 c 263 § 4.]

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.50.035 Development of forms and instructional brochures by the administrator for the courts—Distribution. The administrator for the courts shall develop and prepare, in consultation with interested persons, the forms and instructional brochures required under RCW 26.50.030(3). These forms shall be distributed to and available for use by the court clerks before September 1, 1984. [1984 c 263 § 31.]

26.50.040 Application for leave to proceed in forma pauperis. (1) Persons seeking relief under this chapter may file an application for leave to proceed in forma pauperis on forms supplied by the court. If the court determines that a petitioner lacks the funds to pay the costs of filing, the petitioner shall be granted leave to proceed in forma pauperis and no filing fee shall be charged by the court to the petitioner for relief sought under this chapter.

(2) For the purpose of determining whether a petitioner has the funds available to pay the costs of filing an action under this chapter, the income of the household or family member named as the respondent is not considered. [1984 c 263 § 5.]

26.50.050 Hearing—Service—Time. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely service cannot be made, the court may set a new hearing date. [1984 c 263 § 6.]

26.50.060 Relief. Upon notice and after hearing, the court may provide relief as follows:

(1) Restrain a party from committing acts of domestic violence;

(2) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(3) On the same basis as is provided in chapter 26.09 RCW, award temporary custody and establish temporary visitation with regard to minor children of the parties, and restrain any party from interfering with the custody of the minor children;

(4) Order the respondent to participate in treatment or counseling services;

(5) Order other relief as it deems necessary for the protection of a family or household member, including orders or directives to a peace officer, as allowed under this chapter; and

(6) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee.

Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year. [1984 c 263 § 7.]

26.50.070 Ex parte temporary order for protection.

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court; and

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days, but may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. [1984 c 263 § 8.]

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

26.50.080 Issuance of order—Assistance of peace officer—Designation of appropriate law enforcement agency. When an order is issued under this chapter upon

request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in the execution of the order of protection. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order. [1984 c 263 § 9.]

26.50.090 Order—Service. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary. [1984 c 263 § 10.]

26.50.100 Order—Transmittal to law enforcement agency—Record in law enforcement information system—Enforceability. A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state. [1984 c 263 § 11.]

26.50.110 Violation of order—Penalties. (1) Whenever an order for protection is granted under this chapter and the respondent or person to be restrained knows of the order, a violation of the restraint provisions or of a provision excluding the person from a residence is a misdemeanor.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter that restrains the person or excludes the person from a residence, if the person restrained knows of the order.

(3) A violation of an order for protection shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order for protection granted under this chapter, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. [1984 c 263 § 12.]

26.50.120 Violation of order—Prosecuting attorney or attorney for municipality may be requested to assist—Costs and attorney's fee. When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee. [1984 c 263 § 13.]

26.50.130 Order—Modification—Transmittal. Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system. [1984 c 263 § 14.]

26.50.140 Peace officers—Immunity. No peace officer may be held criminally or civilly liable for making an arrest under RCW 26.50.110 if the police officer acts in good faith and without malice. [1984 c 263 § 17.]

26.50.200 Title to real estate—Effect. Nothing in *this act may affect the title to real estate. [1984 c 263 § 15.]

*Reviser's note: For translation of "this act" [1984 c 263] see Codification Tables, this volume.

26.50.210 Proceedings additional. Any proceeding under *this act is in addition to other civil or criminal remedies. [1984 c 263 § 16.]

*Reviser's note: For translation of "this act" [1984 c 263] see Codification Tables, this volume.

26.50.900 Short title. This chapter may be cited as the "Domestic Violence Prevention Act". [1984 c 263 § 1.]

26.50.901 Effective date—1984 c 263. Sections 1 through 29 of this act shall take effect on September 1, 1984. [1984 c 263 § 32.]

26.50.902 Severability—1984 c 263. 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 263 § 33.]

Title 27

LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapters

- 27.04 State library.**
- 27.08 State certification of librarians.**
- 27.12 Public libraries.**
- 27.24 County law libraries.**
- 27.60 1989 Washington centennial.**

Chapter 27.04 STATE LIBRARY

Sections

- 27.04.020 Library commission created—Terms, vacancies—Compensation and travel expenses. (Effective July 1, 1985.)
- 27.04.030 Duties of commission.
- 27.04.035 Repealed.
- 27.04.037 Repealed.
- 27.04.040 Repealed.
- 27.04.045 Duties of commission—Responsibility for certain functions.
- 27.04.050 Duties of librarian.
- 27.04.060 Repealed.
- 27.04.070 Repealed.
- 27.04.090 Repealed.

27.04.020 Library commission created—Terms, vacancies—Compensation and travel expenses. (Effective July 1, 1985.) A state library commission is hereby created which shall consist of the superintendent of public instruction, who shall be ex officio chairman of the commission, and four commissioners appointed by the governor, one of whom shall be a library trustee at the time of appointment and one a certified librarian actually engaged in library work at the time of appointment. The first appointments shall be for terms of one, two, three, and four years respectively, and thereafter one commissioner shall be appointed each year to serve

for a four year term. Vacancies shall be filled by appointments for the unexpired terms. Each commissioner shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in the actual performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 58; 1975-'76 2nd ex.s. c 34 § 66; 1967 c 198 § 1; 1963 c 202 § 1; 1961 c 45 § 1; 1941 c 5 § 1; Rem. Supp. 1941 § 10771-2. Prior: See Reviser's note following RCW 27.04.010.]

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.

27.04.030 Duties of commission. The state library commission:

(1) May make such rules under chapter 34.04 RCW as may be deemed necessary and proper to carry out the purposes of this chapter;

(2) Shall set general policy direction pursuant to the provisions of this chapter;

(3) Shall appoint a state librarian who shall serve at the pleasure of the commission;

(4) Shall adopt a recommended budget and submit it to the governor;

(5) Shall have authority to contract with any agency of the state of Washington for the purpose of providing library materials, supplies, and equipment and employing assistants as needed for the development, growth, and operation of any library facilities or services of such agency;

(6) Shall have authority to contract with any public library in the state for that library to render library service to the blind and/or physically handicapped throughout the state. The state library commission shall have authority to compensate such public library for the cost of the service it renders under such contract;

(7) May adopt rules under chapter 34.04 RCW for the allocation of any grants of state funds for public or cooperative library services;

(8) Shall have authority to accept and to expend in accordance with the terms thereof any grant of federal funds which may become available to the state for library purposes. For the purpose of qualifying to receive such grants, the state library commission is authorized to make such applications and reports as may be required by the federal government as a condition thereto;

(9) Shall have the authority to provide for the sale of library material in accordance with RCW 27.12.305;

(10) Shall pay expenses of the state board for certification of librarians under RCW 27.08.045. [1984 c 152 § 1; 1943 c 207 § 2; 1941 c 5 § 2; Rem. Supp. 1943 § 10771-3. Prior: See Reviser's note following RCW 27.04.010.]

27.04.035 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

27.04.037 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

27.04.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

27.04.045 Duties of commission—Responsibility for certain functions. The state library commission shall be responsible for the following functions:

(1) Maintaining a library at the state capitol grounds to effectively provide library and information services to members of the legislature, state officials, and state employees in connection with their official duties;

(2) Acquiring and making available information, publications, and source materials that pertain to the history of the state;

(3) Serving as the depository for newspapers published in the state of Washington thus providing a central location for a valuable historical record for scholarly, personal, and commercial reference and circulation;

(4) Collecting and distributing copies of state publications by ensuring that:

(a) The state library collects and makes available as part of its collection copies of any state publication, as defined in RCW 40.06.010, prepared by any state agency whenever fifteen or more copies are prepared for distribution. The state library commission, on recommendation of the state librarian, may provide by rule for deposit with the state library of up to three copies of such publication; and

(b) The state library maintains a division to serve as state publications distribution center, as provided in chapter 40.06 RCW;

(5) Providing advisory services to state agencies regarding their information needs;

(6) Providing for library and information service to residents and staff of state-supported residential institutions;

(7) Providing for library and information services to persons throughout the state who are blind and/or physically handicapped;

(8) Assisting individuals and groups such as libraries, library boards, governing bodies, and citizens throughout the state toward the establishment and development of library services;

(9) Making studies and surveys of library needs in order to provide, expand, enlarge, and otherwise improve access to library facilities and services throughout the state;

(10) Serving as a primary interlibrary loan, information, reference, and referral center for all libraries in the state;

(11) Assisting in the provision of direct library and information services to individuals;

(12) Overseeing of the Washington library network in accordance with chapters 27.26 and 43.105 RCW. [1984 c 152 § 2.]

27.04.050 Duties of librarian. The state librarian shall advise the commission and shall be responsible for implementing policy set by the commission; shall be responsible for the general management and administration of the state library; shall have the authority to

acquire library materials, equipment, and supplies by purchase, exchange, gift, or otherwise; and shall have the authority to employ and terminate personnel in accordance with chapter 41.06 RCW as may be necessary to implement the purposes of this chapter and the directions of the state library commission. [1984 c 152 § 3; 1943 c 207 § 3; Rem. Supp. 1943 § 8225-2. Prior: See Reviser's note following RCW 27.04.010.]

State reports to be filed with state library: RCW 40.07.030.

27.04.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

27.04.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

27.04.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 27.08

STATE CERTIFICATION OF LIBRARIANS

Sections

27.08.010 State librarians' certification board created—Compensation of members—Powers—Certificate fee—Expenses of board—Certified librarians required. (Effective July 1, 1985.)

27.08.010 State librarians' certification board created—Compensation of members—Powers—Certificate fee—Expenses of board—Certified librarians required. (Effective July 1, 1985.) (1) There is hereby created a state board for the certification of librarians, which shall consist of the state librarian, the executive officer of the department of librarianship of the University of Washington, and one other member to be appointed by the governor for a term of three years from a list of three persons nominated by the executive committee of the Washington library association. The members of the board shall be compensated in accordance with RCW 43.03.240, shall have authority to establish rules and regulations for their own government and procedure, and shall prescribe and hold examinations to test the qualifications of those seeking certificates as librarians.

(2) The board shall grant librarians' certificates without examination to applicants who are graduates of library schools accredited by the American library association for general library training, and shall grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently.

(3) Any person not a graduate of a library school accredited by the American library association, but who has served as a librarian or a full-time professional assistant in any library in this state for at least one year or the equivalent thereof prior to midnight, June 12, 1935, shall be granted a librarian's certificate without examination, but such certificate shall be good only for the

position specified therein, unless specifically extended by the board.

(4) The board shall require a fee of not less than one dollar nor more than five dollars to be paid by each applicant for a librarian's certificate. Money paid as fees shall be deposited with the state treasurer. All necessary expenses of the board shall be paid from funds appropriated by the legislature upon the presentation of proper vouchers approved by the board.

(5) After January 1, 1937, a library serving a community having over four thousand population shall not have in its employ, in the position of librarian or in any other full-time professional library position, a person who does not hold a librarian's certificate issued by the board.

(6) A full-time professional library position, as intended by this section, is one that requires, in the opinion of the state board for the certification of librarians, a knowledge of books and of library technique equivalent to that required for graduation from an accredited library school.

(7) The provisions in this section shall apply to every library serving a community having over four thousand population and to every library operated by the state or under its authority, including libraries of institutions of higher learning: *Provided*, That nothing in this section shall apply to the state law library or to county law libraries. [1984 c 287 § 59; 1973 c 106 § 12; 1935 c 119 § 11; RRS § 8226-11. Formerly RCW 27.08.010, 27.08-020, 27.08.030, 27.08.040 and 27.08.050.]

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

Chapter 27.12 PUBLIC LIBRARIES

Sections

27.12.060	Rural library districts—General powers.
27.12.070	Rural library districts—Disbursement of revenues and collection of taxes.
27.12.222	Rural, island, and intercounty rural districts—General obligation bonds—Excess levies.
27.12.223	Bonds—Sale—Security for deposit.

27.12.060 Rural library districts—General powers. A rural county library district shall be a public corporation with such powers as are necessary to carry out its functions and for taxation purposes shall have the power vested in municipal corporations for such purposes. [1984 c 186 § 6; 1983 c 167 § 19; 1980 c 100 § 1; 1955 c 59 § 6. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39-46.010 and note following.

27.12.070 Rural library districts—Disbursement of revenues and collection of taxes. The county treasurer of the county in which any rural county library district is created shall receive and disburse all district revenues

and collect all taxes levied under this chapter. [1984 c 186 § 7; 1973 1st ex.s. c 195 § 6; 1970 ex.s. c 42 § 2; 1955 c 59 § 7. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Annual appropriations—Control of expenditures: RCW 27.12.240.

Capital outlays—General obligation bonds—Excess levies: RCW 27.12.222.

27.12.222 Rural, island, and intercounty rural districts—General obligation bonds—Excess levies. A rural county library district, intercounty rural library district, or island library district may contract indebtedness and issue general obligation bonds not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-tenth of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. The maximum term of nonvoter approved general obligation bonds shall not exceed six years. A rural county library district, island library district, or intercounty rural library district may additionally contract indebtedness and issue general obligation bonds for capital purposes only, together with any outstanding general indebtedness, not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39-36.015 whenever a proposition authorizing the issuance of such bonds has been approved by the voters of the district pursuant to RCW 39.36.050, by three-fifths of the persons voting on the proposition at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize at an election held pursuant to RCW 39.36.050, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27-12.050 or 27.12.150 or any other statute pertaining to such library districts. [1984 c 186 § 8; 1982 c 123 § 11; 1970 ex.s. c 42 § 3; 1955 c 59 § 1.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Island library districts—Tax levies: RCW 27.12.420.

27.12.223 Bonds—Sale—Security for deposit. Bonds authorized by RCW 27.12.222 shall be issued and sold in accordance with chapter 39.46 RCW. All such bonds shall be legal securities for any bank or trust company for deposit with the state treasurer or any county or city treasurer as security for deposits in lieu of

a surety bond under any law relating to deposits of public moneys. [1984 c 186 § 9; 1983 c 167 § 20; 1970 ex.s. c 56 § 6; 1969 ex.s. c 232 § 4; 1955 c 59 § 2.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

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.

Chapter 27.24 COUNTY LAW LIBRARIES

Sections

27.24.070 Portion of filing fees to be used for county or regional law library. (Effective July 1, 1985.)

27.24.070 Portion of filing fees to be used for county or regional law library. (Effective July 1, 1985.) In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to seven dollars for every new probate or civil matter, including appeals, filed with the clerk of the superior court and three dollars for every civil action commenced in district court for the support of the law library in that county or the regional law library to which the county belongs: *Provided*, That upon a showing of need the seven dollar contribution may be increased up to nine dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies. [1984 c 258 § 310; 1979 c 126 § 1; 1971 ex.s. c 141 § 3; 1969 c 25 § 2; 1961 c 304 § 9; 1957 c 31 § 1; 1953 c 249 § 1. Prior: (i) 1937 c 32 § 1, part; 1919 c 84 § 8, part; RRS § 8254, part. (ii) 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part. (iii) 1943 c 195 § 2; Rem. Supp. 1943 § 8254-9.]

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.

County clerk's fees: RCW 36.18.020.

District courts, filing fees in civil cases: RCW 3.62.060.

Chapter 27.60 1989 WASHINGTON CENTENNIAL

Sections

27.60.020 1989 Washington centennial commission created.

27.60.060 Expenditure of funds—Authority to earn certain income and accept gifts or grants.

27.60.020 1989 Washington centennial commission created. (1) There is established the 1989 Washington centennial commission composed of fifteen members selected as follows:

(a) Two members of the house of representatives appointed by the speaker of the house, one from each political party;

(b) Two members of the senate appointed by the president of the senate, one from each political party;

(c) Eleven citizens of the state, appointed by and serving at the pleasure of the governor, including a person from a minority culture to represent the state's minority communities, at least one person to represent small towns and rural areas, at least one person representing a state-wide historic preservation organization, and at least one person representing a state historical society.

(2) The chairperson of the commission shall be appointed by the governor from among the citizen members.

(3) The commission shall meet at such times as it is called by the governor or by the chairperson of the commission. [1984 c 120 § 1; 1982 c 90 § 2.]

27.60.060 Expenditure of funds—Authority to earn certain income and accept gifts or grants. Subject to existing state law, the commission may disburse legislatively appropriated funds for commemorative programs and activities. It may accept gifts or grants from public or private sources. It may generate earned income through contractual licensing of its symbol for use in commercially manufactured commemorative products or grant use of the symbol in recognition of services provided. Gifts, grants, and earned income shall be retained in a separate account within the general fund for use by the commission in the support of commemorative programs and activities defined but not limited by RCW 27.60.040(1) (a) through (g). Funds not expended by December 31, 1990, shall revert to the general fund. [1984 c 120 § 2.]

Title 28A COMMON SCHOOL PROVISIONS

Chapters

28A.02 General provisions.

28A.03 Superintendent of public instruction.

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**Chapter 28A.02
GENERAL PROVISIONS**

Sections

- 28A.02.061 School holidays.
- 28A.02.250 Private school advisory committee.

28A.02.061 School holidays. The following are school holidays, and school shall not be taught on these days: Saturday; Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February, being the anniversary of the birth of George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: *Provided*, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught. [1984 c 92 § 1; 1975-'76 2nd ex.s. c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060; prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.060, 28.02.060.]

Severability—1969 ex.s. c 283: "If any provision of this 1969 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." [1969 ex.s. c 283 § 59.]

"Legal holidays": RCW 1.16.050.

28A.02.250 Private school advisory committee. The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. [1984 c 40 § 1; 1974 ex.s. c 92 § 6.]

Severability—1984 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." [1984 c 40 § 17.]

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

- 28A.03.051 Repealed.
- 28A.03.094 Transitional bilingual instruction program, superintendent's duties.
- 28A.03.360 Assessments—Achievement tests—Scope—Purpose—Procedure.
- 28A.03.365 Assessment tests for eighth through eleventh grade students—School districts may prepare.

- 28A.03.370 Washington life skills test—Development and review—Use by school districts.
- 28A.03.380 Development of programs to keep students in school—Grants of funds authorized.
- 28A.03.425 Model curriculum programs or curriculum guidelines—Development—Review.
- 28A.03.430 Mathematics, engineering, and science achievement program—Legislative findings and intent.
- 28A.03.432 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals.
- 28A.03.434 Mathematics, engineering, and science achievement program—Coordinator—Staff.
- 28A.03.436 Mathematics, engineering, and science achievement program—Coordinator to develop selection standards.
- 28A.03.438 Mathematics, engineering, and science achievement program—Local program centers.

28A.03.051 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.03.094 Transitional bilingual instruction program, superintendent's duties. See RCW 28A.58.801.

28A.03.360 Assessments—Achievement tests—Scope—Purpose—Procedure. (1) Every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the local school districts. This test shall be used to help teachers in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation.

(3) The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, an assessment to be administered annually to all grade eight students. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school programs and courses for the students and to provide comparisons within the district, the state and, if applicable, the nation. The assessment shall include but not be limited to tests in reading, mathematics, and language arts and a student interest inventory. The superintendent of public instruction shall make the results available to all local school districts which shall in turn make them available to students, parents, and teachers in a timely fashion.

(4) The superintendent of public instruction shall test approximately two thousand students distributed throughout the state in the eleventh grade once every

two years. Choice of students shall be based on a statistical random sample of students from this grade level sufficient to generalize about all of the students at the grade level from the state's school districts. The purpose of the test is to allow the public, the legislature, and school district personnel to evaluate how Washington students in this grade compare to students in the same grade tested in other comparable national achievement surveys.

(5) The superintendent of public instruction shall report annually to the legislature on the achievement levels of students in grades four and eight and shall report biennially to the legislature on the achievement levels of students in grade eleven. [1984 c 278 § 8; 1975-'76 2nd ex.s. c 98 § 1.]

Severability—1984 c 278: See note following RCW 28A.58.094.

Implementation—**Funding required**—1984 c 278: See note following RCW 28A.03.425.

Effective date—1975-'76 2nd ex.s. c 98: "This 1976 amendatory act shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 98 § 3.]

28A.03.365 Assessment tests for eighth through eleventh grade students—School districts may prepare. School districts are encouraged to prepare and administer a program of assessment tests to be periodically administered to students as they progress from the eighth through eleventh grades for the purpose of identifying and remedying deficiencies. [1984 c 278 § 10.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.03.370 Washington life skills test—Development and review—Use by school districts. (1) The superintendent of public instruction shall prepare, in consultation with and with the assistance of school districts, a model test to assess students' ability to perform various functions common to everyday life. This model test shall be called the "Washington life skills test" and shall be made available to school districts for use at the district's option. The test shall include questions designed to determine students' academic growth and proficiency in skills generally thought to be useful in adult life, including but not limited to English, vocabulary, communications, and mathematical skills as such skills relate to career, consumer, economic, health, and other issues important to individuals becoming productive citizens. The superintendent of public instruction shall develop and implement a process to review periodically the contents of the test and make changes as may be appropriate or necessary.

(2) School districts may establish their own policies and procedures governing the use of the test. Districts may use the test as a requirement for graduation in conjunction with other state and local graduation requirements or for other purposes as districts may determine. [1984 c 278 § 11.]

Severability—1984 c 278: See note following RCW 28A.58.094.

Implementation—**Funding required**—1984 c 278: See note following RCW 28A.03.425.

[1984 RCW Supp.—page 248]

28A.03.380 Development of programs to keep students in school—Grants of funds authorized. The superintendent of public instruction is authorized to grant funds to selected school districts to assist in the development of innovative programs for the retention of students in the common school system. [1984 c 278 § 21.]

Severability—1984 c 278: See note following RCW 28A.58.094.

Implementation—**Funding required**—1984 c 278: See note following RCW 28A.03.425.

28A.03.425 Model curriculum programs or curriculum guidelines—Development—Review. The office of the superintendent of public instruction, in consultation with the state board of education, shall prepare model curriculum programs and/or curriculum guidelines in three subject areas each year. These model curriculum programs or curriculum guidelines shall span all grade levels and shall include statements of expected learning outcomes, content, integration with other subject areas, recommended instructional strategies, and suggested resources.

Certificated employees with expertise in the subject area under consideration shall be chosen by the superintendent of public instruction from each educational service district, from a list of persons suggested by their peers, to work with the staff of the superintendent of public instruction to prepare each model curriculum program or curriculum guidelines. Each participant shall be paid his or her regular salary by his or her district, and travel and per diem expenses by the superintendent of public instruction. The superintendent of public instruction shall make selections of additional experts in the subject area under consideration as are needed to provide technical assistance and to review and comment upon the model curriculum programs and/or curriculum guidelines before publication and shall be paid travel and per diem expenses by the superintendent of public instruction as necessary. The model curriculum programs and curriculum guidelines shall be made available to all districts. Participants developing model curriculum programs and/or curriculum guidelines may be used by school districts to provide training or technical assistance or both. After completion of the original development of model curriculum programs or curriculum guidelines, the office of the superintendent of public instruction shall schedule, at least every five years, a regular review and updating of programs and guidelines in each subject matter area. Any travel and per diem expenses provided to employees involved in the development of model programs or guidelines shall not be considered salary or compensation for purposes of the limitations established in RCW 28A.58.095. [1984 c 278 § 5.]

Implementation—**Funding required**—1984 c 278: "Implementation of sections 5, 11, and 21 of this act and the amendment to RCW 28A.03.360 by section 8 of this act are each subject to funds being appropriated or available for such purpose or purposes." [1984 c 278 § 22.] Sections 5, 11, and 21 of this act [1984 c 278] are codified as RCW 28A.03.425, 28A.03.370, and 28A.03.380, respectively.

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.03.430 Mathematics, engineering, and science achievement program—Legislative findings and intent.

The legislature finds that high technology is important to the state's economy and the welfare of its citizens. The legislature finds that certain groups, as characterized by sex or ethnic background, are traditionally underrepresented in mathematics, engineering, and the science-related professions in this state. The legislature finds that women and minority students have been traditionally discouraged from entering the fields of science and mathematics. The legislature finds that attitudes and knowledges acquired during the kindergarten through eighth grade prepare students to succeed in high school science and mathematics programs and that special skills necessary for these fields need to be acquired during the ninth through twelfth grades. It is the intent of the legislature to promote a mathematics, engineering, and science achievement program to help increase the number of people in these fields from groups underrepresented in these fields. [1984 c 265 § 1.]

Implementation—Funding required—1984 c 265: "Implementation of this act shall be subject to funds being appropriated or otherwise available for such purposes." [1984 c 265 § 6.] This act [1984 c 265] consists of the enactment of RCW 28A.03.430 through 28A.03.438, and this section.

28A.03.432 Mathematics, engineering, and science achievement program—Establishment and administration through University of Washington—Goals. A program to increase the number of people from groups underrepresented in the fields of mathematics, engineering, and the physical sciences in this state shall be established by the University of Washington. The program shall be administered through the University of Washington and designed to:

(1) Encourage students in the targeted groups in the common schools, with a particular emphasis on those students in the ninth through twelfth grades, to acquire the academic skills needed to study mathematics, engineering, or related sciences at an institution of higher education;

(2) Promote the awareness of career opportunities and the skills necessary to achieve those opportunities among students sufficiently early in their educational careers to permit and encourage the students to acquire the skills;

(3) Promote cooperation among institutions of higher education, the superintendent of public instruction and local school districts in working towards the goals of the program; and

(4) Solicit contributions of time and resources from public and private institutions of higher education, high schools, and private business and industry. [1984 c 265 § 2.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.03.430.

28A.03.434 Mathematics, engineering, and science achievement program—Coordinator—Staff. A coordinator shall be hired to administer the program. Additional staff as necessary may be hired. [1984 c 265 § 3.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.03.430.

28A.03.436 Mathematics, engineering, and science achievement program—Coordinator to develop selection standards. The coordinator shall develop standards and criteria for selecting students who participate in the program which may include predictive instruments to ascertain aptitude and probability of success. The standards shall include requirements that students take certain courses, maintain a certain grade point average, and participate in activities sponsored by the program. Women and students from minority groups, which are traditionally underrepresented in mathematics and science-related professions and which meet the requirements established by the coordinator shall be selected. [1984 c 265 § 4.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.03.430.

28A.03.438 Mathematics, engineering, and science achievement program—Local program centers. The coordinator shall establish local program centers throughout the state to implement RCW 28A.03.432 through 28A.03.436. Each center shall be managed by a center director. Additional staff as necessary may be hired. [1984 c 265 § 5.]

Implementation—Funding required—1984 c 265: See note following RCW 28A.03.430.

Chapter 28A.04

STATE BOARD OF EDUCATION

Sections

- 28A.04.110 Meetings—Compensation and travel expenses of members. (Effective July 1, 1985.)
- 28A.04.120 Powers and duties generally.
- 28A.04.155 Development of standardized high school transcripts—School districts to inform students of importance.

28A.04.110 Meetings—Compensation and travel expenses of members. (Effective July 1, 1985.) The state board of education shall hold an annual meeting and such other regular meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction, or by a majority of the board. The persons serving as members of the state board of education shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed by the superintendent of public instruction for travel expenses in accordance with RCW 43.03.050 and 43.03.060 incurred in the performance of their duties which expenses shall be paid by the state treasurer on warrants out of funds appropriated or otherwise available, upon the order of the superintendent. [1984 c 287 § 60; 1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28-.04.110; 43.63.130.]

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.

Records of meetings kept by superintendent of public instruction: RCW 28A.03.030.

State treasurer to issue state warrants: RCW 43.88.160.

28A.04.120 Powers and duties generally. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(3) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.70.005.

(4) Accredite, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.02.201, private schools carrying out a program for any or all of the grades one through twelve: *Provided*, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: *Provided further*, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(5) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(6) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(7) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

(8) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate

with the institutions of higher education and unify the work of the public school system.

(9) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.57 RCW.

(10) By rule or regulation promulgated upon the advice of the state fire marshal, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(11) Hear and decide appeals as otherwise provided by law. [1984 c 40 § 2; 1979 ex.s. c 173 § 1; 1975-'76 2nd ex.s. c 92 § 1; 1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120. Prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Severability—1975-'76 2nd ex.s. c 92: "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 92 § 6.]

Professional certification not to be required of superintendents, deputy or assistant superintendent: RCW 28A.02.260.

28A.04.155 Development of standardized high school transcripts—School districts to inform students of importance. (1) The state board of education shall develop for use by all public school districts a standardized high school transcript. The state board of education shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment. [1984 c 178 § 1.]

High school diplomas—Receiving final transcript optional: RCW 28A.58.108.

Chapter 28A.05
COMPULSORY COURSES

Sections

28A.05.005	Course content requirements—Duties of school district boards of directors.
28A.05.030	Physical education in grades one through eight.
28A.05.040	Physical education in high schools.
28A.05.060	High school graduation requirements or equivalencies—Temporary exemptions—Reevaluation and report by state board of education.
28A.05.070	Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions. (Effective July 1, 1986.)

High school diplomas—Option to receive final transcript: RCW 28A.58.108.

Standardized high school transcript: RCW 28A.04.155.

28A.05.005 Course content requirements—Duties of school district boards of directors. School district boards of directors shall identify and offer courses with content that meet or exceed: (1) The basic education skills identified in RCW 28A.58.752; (2) the graduation requirements under RCW 28A.05.060; and (3) the courses required to meet the minimum college entrance requirements under RCW 28A.05.070. Such courses may be applied or theoretical, academic or vocational. [1984 c 278 § 2.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.05.030 Physical education in grades one through eight. Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule or regulation of the state board of education: *Provided*, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics. [1984 c 52 § 1; 1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28.05.030.]

28A.05.040 Physical education in high schools. All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule or regulation of the state board of education: *Provided*, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics: *Provided further*, That individual high school students shall be excused therefrom upon the written request of parents or guardians. [1984 c 52 § 2; 1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.]

28A.05.060 High school graduation requirements or equivalencies—Temporary exemptions—Reevaluation and report by state board of education. (1) The state board of education shall establish high school graduation

requirements or equivalencies for students who commence the ninth grade subsequent to July 1, 1985, that meet or exceed the following:

SUBJECT	CREDITS*	YEARS*
English	9	3**
Mathematics	6	2**
Social Studies		
United States history and government	3	1
Washington state history and government	1 1/2	1/2
Contemporary world history, geography, and problems	3	1
Science (3 credits must be in laboratory science)	6	2**
Occupational Education	3	1
Physical Education	(See RCW 28A.05.040 for physical education requirements.)***	
Electives	16 1/2	
Total	48	

* Credit means 60 hours of instruction including normal class change passing time. Three credits are the equivalent to a one-year course.

** No more than 1 credit per trimester or 1 1/2 credits per semester or 3 credits per year may be applied toward graduation requirements in these subjects. Additional credits in these subjects may be counted as electives.

*** The state board of education shall establish through rules and regulations clearly defined physical education requirements for the purpose of minimum high school graduation requirements under RCW 28A.05.040.

A candidate for graduation must have in addition earned a minimum of 48 credits and fulfilled the physical education requirement. These credits shall consist of the state requirements listed above and such additional requirements and electives as shall be established by each district.

(2) The state board of education shall develop and establish procedures for students to meet equivalencies for courses required for graduation in subsection (1) of this section. Such procedures may include provisions for competency testing in lieu of such courses.

(3) The state board of education shall establish procedures for establishing high school graduation requirements for students with special educational needs, in accord with limitations on their ability to fulfill these high school graduation requirements.

(4) The local school districts shall consider the relevance of vocational and applied courses in fulfilling these high school graduation requirements.

(5) The state board of education, upon request from local school districts, shall be authorized to grant temporary exemptions from the graduation requirements in

subsection (1) of this section for reasons relating to school district size and availability of staff authorized to teach required subjects. The state board of education may adopt reasonable and necessary rules regarding exemptions for students who transfer between districts.

(6) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board. [1984 c 278 § 6.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.05.070 Program to help students meet minimum entrance requirements at baccalaureate-granting institutions—Exceptions. (Effective July 1, 1986.) (1) All public high schools of the state shall provide a program, directly or otherwise, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.045.

(2) The state board of education, upon request from local school districts, shall be authorized to grant temporary exemptions from providing the program described in subsection (1) of this section for reasons relating to school district size and availability of staff authorized to teach subjects which must be provided. [1984 c 278 § 16.]

Effective date—1984 c 278: "Sections 16, 18, and 19 of this act shall take effect July 1, 1986." [1984 c 278 § 23.] Sections 16 and 18 of this act [1984 c 278] are codified as RCW 28A.05.070 and 28B.10.045 and section 19 consists of the amendment to RCW 28B.10.050.

Severability—1984 c 278: See note following RCW 28A.58.094.

Chapter 28A.13

SPECIAL EDUCATION—DIVISION FOR HANDICAPPED CHILDREN

Sections

- 28A.13.010 Division for handicapped children created—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court.
- 28A.13.065 Superintendent of public instruction to adopt certain rules for preschool handicapped programs—Legislative intent.

28A.13.010 Division for handicapped children created—"Handicapped children" and "appropriate education" defined—Approval when child under jurisdiction of juvenile court. There is established in the office of the superintendent of public instruction a division of special education for handicapped children, to be known as the division for handicapped children.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional

maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children between the ages of five and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. Special education and training programs provided by the state and school districts for handicapped children shall be extended to include preschool age children four years of age and older commencing with the 1984-85 school year and shall be extended to include preschool age children three years of age and older commencing with the 1985-86 school year. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in this chapter, RCW 28A.24.100 and 28A.41.053, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of this chapter, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for handicapped children, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.13.050.

No child shall be removed from the jurisdiction of juvenile court for training or education under this chapter without the approval of the superior court of the county. [1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28.13.010.]

Severability—1984 c 160: "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 160 § 6.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.065 Superintendent of public instruction to adopt certain rules for preschool handicapped programs—Legislative intent. Prior to the start of the 1984-85 school year, the superintendent of public instruction shall adopt rules setting standards on the selection and use of a limited number of assessment

instruments to establish eligibility for preschool handicapped programs. Prior to the start of the 1984–85 school year, the superintendent of public instruction shall adopt rules revising the eligibility criteria for preschool handicapped programs. The legislature intends that the new rules shall address the following legislative concerns:

(1) The rules setting assessment standards shall result in use of a limited number of appropriate assessment instruments to produce consistent, equitable, and reliable eligibility decisions.

(2) Delays of twenty-five percent or less from chronological age in any two of the developmental areas under WAC 392–171–381 do not constitute an actual handicapping condition requiring early intervention by special education programs. Greater attention shall be directed to defining the scope of the developmental areas and to establishing the extent of a significant delay.

(3) Articulation problems and mild language delays unaccompanied by significant delays in other developmental areas shall be treated as communication disorders under WAC 392–171–391 and not as developmental handicaps under WAC 392–171–381.

(4) Subjective exceptional provisions of WAC 392–171–381 shall be modified or eliminated, including the provision for placement in preschool handicapped programs of children who do not manifest significant developmental delays but who are judged by the assessment team to have a high predictability of future developmental delays.

The superintendent of public instruction shall report in writing to the legislature by December 14, 1984, on the implementation of this section. [1984 c 160 § 2.]

Severability—1984 c 160: See note following RCW 28A.13.010.

Chapter 28A.16

PROGRAMS FOR HIGHLY CAPABLE STUDENTS

(Formerly: Special education—Division for superior students)

Sections

28A.16.010	through 28A.16.030 Repealed.
28A.16.040	Program—Duties of superintendent of public instruction.
28A.16.050	Funding.
28A.16.060	Programs—Authority of local school districts— Selection of students.

28A.16.010 through 28A.16.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.16.040 Program—Duties of superintendent of public instruction. Pursuant to rules and regulations adopted by the superintendent of public instruction for the administration of this chapter, the superintendent of public instruction shall carry out a program for highly capable students. Such program may include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, providing statewide staff development, and allocating to school districts supplementary funds for

additional costs of district programs, as provided by RCW 28A.16.050. [1984 c 278 § 12.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.16.050 Funding. Supplementary funds as may be provided by the state for this program, in accordance with RCW 28A.41.162, shall be categorical funding on an excess cost basis based upon a per student amount not to exceed three percent of any district's full-time equivalent enrollment. [1984 c 278 § 14.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.16.060 Programs—Authority of local school districts—Selection of students. Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules and regulations adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students. Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.

(2) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose. [1984 c 278 § 13.]

Severability—1984 c 278: See note following RCW 28A.58.094.

Chapter 28A.21

EDUCATIONAL SERVICE DISTRICTS— SUPERINTENDENT—BOARDS

Sections

28A.21.036	Repealed.
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28A.21.036 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.31
HEALTH MEASURES

Sections

28A.31.100	Immunization program—Purpose.
28A.31.102	Immunization program—Definitions.
28A.31.106	Immunization program—Exemptions from on presentation of alternative certifications.
28A.31.108	Immunization program—Exempted persons.
28A.31.110	Immunization program—Source of immunizations—Written records.
28A.31.114	Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents.
28A.31.116	Immunization program—State board of health rules, contents.
28A.31.122	Repealed.

28A.31.100 Immunization program—Purpose. In enacting RCW 28A.31.100 through 28A.31.120, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases. [1984 c 40 § 3; 1979 ex.s. c 118 § 1.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—1979 ex.s. c 118: "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 September 1, 1979." [1979 ex.s. c 118 § 13.]

Severability—1979 ex.s. c 118: "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 118 § 16.]

28A.31.102 Immunization program—Definitions. As used in RCW 28A.31.100 through 28A.31.120:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.31.100 through 28A.31.120 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW

28A.04.120(4) and 28A.02.201 through 28A.02.260, each as now or hereafter amended.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW. [1984 c 40 § 4; 1979 ex.s. c 118 § 2.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.106 Immunization program—Exemptions from on presentation of alternative certifications. Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.31.100 through 28A.31.120 upon the presentation of any one or more of the following, on a form prescribed by the department of social and health services:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: *Provided*, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child. [1984 c 40 § 5; 1979 ex.s. c 118 § 4.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.108 Immunization program—Exempted persons. The requirements of RCW 28A.31.100 through 28A.31.120 shall not apply to any person eighteen years of age or older, nor shall they apply to any female person twelve years of age or older with respect to immunization for rubella. [1984 c 40 § 6; 1979 ex.s. c 118 § 5.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—Severability—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.110 Immunization program—Source of immunizations—Written records. The immunizations required by RCW 28A.31.100 through 28A.31.120 may be obtained from any private or public source desired: *Provided*, That the immunization is administered and records are made in accordance with the regulations of the state board of health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health. [1984 c 40 § 7; 1979 ex.s. c 118 § 6.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—**Severability**—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.114 Immunization program—Prohibiting child's presence, when—Notice to parent, guardian or adult in loco parentis, contents. Upon notification by the local health department, it shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.31.104 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child from a school or day care center each local health department shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.31.104. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.31.100 through 28A.31.120; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.31.104 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.31.118 and/or 28A.31.120, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies. [1984 c 40 § 8; 1979 ex.s. c 118 § 8.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—**Severability**—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.116 Immunization program—State board of health rules, contents. The state board of health shall adopt and is hereby empowered to adopt rules pursuant to chapter 34.04 RCW which establish the procedural and substantive requirements for full immunization and the form and substance of the proof thereof, to be required pursuant to RCW 28A.31.100 through 28A.31.120. [1984 c 40 § 9; 1979 ex.s. c 118 § 9.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Effective date—**Severability**—1979 ex.s. c 118: See notes following RCW 28A.31.100.

28A.31.122 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.47

SCHOOL PLANT FACILITIES AID—BOND ISSUES

Sections

- 28A.47.840 1984 bond issue for construction, modernization of school plant facilities—Intent.
- 28A.47.841 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale.
- 28A.47.842 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use.
- 28A.47.843 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education.
- 28A.47.844 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds.
- 28A.47.845 1984 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means for payment.
- 28A.47.846 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds.

28A.47.840 1984 bond issue for construction, modernization of school plant facilities—Intent. It is the intent of the legislature to authorize general obligation bonds of the state of Washington for common school plant facilities which provides for the reimbursement of the state treasury for principal and interest payments and which therefore is not subject to the limitations on indebtedness under RCW 39.42.060. [1984 c 266 § 1.]

Severability—1984 c 266: "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 266 § 8.]

28A.47.841 1984 bond issue for construction, modernization of school plant facilities—Authorized—Sale. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million one hundred seventy 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. Section 887, chapter 57, Laws of 1983 1st ex. sess. is appropriation authority for the bonds authorized in this section, and no further appropriation authority of the net proceeds of the sale of such bonds is necessary for the bonds authorized in this section. [1984 c 266 § 2.]

Severability—1984 c 266: See note following RCW 28A.47.840.

28A.47.842 1984 bond issue for construction, modernization of school plant facilities—Proceeds deposited in common school construction fund—Use. The proceeds from the sale of the bonds authorized in RCW 28A.47.841 shall be deposited in the common school

construction fund and shall be used exclusively for the purposes specified in RCW 28A.47.841 and section 887, chapter 57, Laws of 1983 1st ex. sess. and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 266 § 3.]

Severability—1984 c 266: See note following RCW 28A.47.840.

28A.47.843 1984 bond issue for construction, modernization of school plant facilities—Proceeds—Administered by state board of education. The proceeds from the sale of the bonds deposited under RCW 28A.47.842 in the common school construction fund shall be administered by the state board of education. [1984 c 266 § 4.]

Severability—1984 c 266: See note following RCW 28A.47.840.

28A.47.844 1984 bond issue for construction, modernization of school plant facilities—State general obligation bond fund utilized for payment of principal and interest—Committee's and treasurer's duties—Form and condition of bonds. 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 28A.47.841.

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. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be transferred to the general fund of the state treasury from that portion of the common school construction fund derived from the interest on the permanent common school fund. The transfers from the common school construction fund shall be subject to all pledges, liens, and encumbrances heretofore granted or created on the portion of the fund derived from interest on the permanent common school fund. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

Bonds issued under RCW 28A.47.841 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 266 § 5.]

Severability—1984 c 266: See note following RCW 28A.47.840.

28A.47.845 1984 bond issue for construction, modernization of school plant facilities—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 RCW 28A.47.841, and RCW 28A.47.844 shall not be deemed to provide an exclusive method for the payment. [1984 c 266 § 6.]

Severability—1984 c 266: See note following RCW 28A.47.840.

28A.47.846 1984 bond issue for construction, modernization of school plant facilities—Bonds as legal investment for public funds. The bonds authorized in RCW 28A.47.841 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 266 § 7.]

Severability—1984 c 266: See note following RCW 28A.47.840.

Chapter 28A.51

DISTRICT BONDS FOR LANDS, BUILDINGS AND EQUIPMENT

Sections

28A.51.010	Directors may borrow money, issue bonds.
28A.51.020	Bond issuance—Election.
28A.51.030	through 28A.51.058 Repealed.
28A.51.070	Disposition of bond proceeds—Capital projects fund.
28A.51.180	Refunding former issues without vote of the people.
28A.51.210	Repealed.

28A.51.010 Directors may borrow money, issue bonds. The board of directors of any school district may borrow money and issue negotiable bonds therefor for the purpose of:

- (1) Funding outstanding indebtedness or bonds theretofore issued; or
- (2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or
- (3) For erecting all buildings authorized by law, including but not limited to those mentioned in subparagraph (2) immediately above or necessary or proper to carry out the functions of a school district, and providing the necessary furniture, apparatus, or equipment therefor; or
- (4) For improving the energy efficiency of school district buildings and/or installing systems and components to utilize renewable and/or inexhaustible energy resources; or
- (5) For major and minor structural changes and structural additions to buildings, structures, facilities and sites necessary or proper to carrying out the functions of the school district; or
- (6) For any or all of these and other capital purposes.

Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.

Bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 10; 1983 c 167 § 21; 1980 c 170 § 1; 1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28.51.010, 28.51.050, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validation—1969 c 142: See RCW 39.36.900.

School funds enumerated—*Deposits*—*Uses*—*Energy audits*: RCW 28A.58.441.

28A.51.020 Bond issuance—Election. The question whether the bonds shall be issued, as provided in RCW 28A.51.010, shall be determined at an election to be held pursuant to RCW 39.36.050. If a majority of the votes cast at such election favor the issuance of such bonds, the board of directors must issue such bonds: *Provided*, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district that only needs a simple majority voter approval, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then three-fifths of the votes cast at such election must be in favor of the issuance of such bonds, before the board of directors is authorized to issue said bonds. [1984 c 186 § 11; 1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28.51.020, 28.51.050, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

28A.51.030 through 28A.51.058 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.51.070 Disposition of bond proceeds—Capital projects fund. When the bonds have been sold, the county treasurer shall place the money derived from such sale to the credit of the capital projects fund of the district, and such fund is hereby created. [1984 c 186 § 12; 1983 c 167 § 24; 1979 ex.s. c 257 § 1; 1969 ex.s. c 223 § 28A.51.070. Prior: 1911 c 88 § 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28.51.070, 28.51.080, 28.51.090, 28.51.100 and 28.51.110.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—1979 ex.s. c 257: "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." [1979 ex.s. c 257 § 3.]

28A.51.180 Refunding former issues without vote of the people. Whenever any bonds lawfully issued by any school district under the provisions of this chapter shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power without any vote of the school district to fund the same by issuing bonds conformable to the requirements of this chapter and use the proceeds exclusively for the purpose of retiring and canceling such outstanding bonds as aforesaid, or the said directors in their discretion may exchange such refunding bonds par for par for such outstanding bonds. [1984 c 186 § 13; 1983 c 167 § 25; 1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28.51.180.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

28A.51.210 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.52

VALIDATING INDEBTEDNESS—BONDS

Sections

- 28A.52.050 Authority to borrow, issue bonds.
28A.52.055 Repealed.

28A.52.050 Authority to borrow, issue bonds. If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue and sell negotiable bonds therefor in accordance with chapter 39.46 RCW. [1984 c 186 § 14; 1983 c 167 § 28; 1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1969 ex.s. c 232 § 67; 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28.52.050.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Effective date—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.52.020.

28A.52.055 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.58

PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

Sections

- 28A.58.045 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation.
- 28A.58.090 Student learning objectives—Program identifying and establishing, scope—Review and reports.
- 28A.58.092 Repealed.
- 28A.58.094 Goals for educational excellence—School district boards of directors to establish annual process.
- 28A.58.095 Salaries and compensation for employees—Limitations—Exclusions—Rules.
- 28A.58.108 High school diplomas—Issuance—Option to receive final transcripts—Notice.
- 28A.58.115 Associated student bodies—Powers and responsibilities affecting.
- 28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes.
- 28A.58.195 Grading policies—Option to consider attendance.
- 28A.58.560 Tax deferred annuities.
- 28A.58.756 Repealed.
- 28A.58.772 Educational programs for residential school residents—School district to conduct—Scope of duties and authority.
- 28A.58.800 Transitional bilingual instruction program—Short title—Purpose.
- 28A.58.801 Transitional bilingual instruction program—Annual report by superintendent of public instruction.
- 28A.58.802 Transitional bilingual instruction program—Definitions.
- 28A.58.804 Transitional bilingual instruction program—School board duties.
- 28A.58.806 Transitional bilingual instruction program—Advisory committee participation.
- 28A.58.808 Transitional bilingual instruction program—Guidelines and rules.
- 28A.58.809 Transitional bilingual instruction program—School districts may enrich.
- 28A.58.840 Washington award for vocational excellence.

Transcripts from high school, duty to inform students of importance: RCW 28A.04.155.

28A.58.045 Real property—Sale—Notice of and hearing on—Appraisal required—Broker or real estate appraiser services—Real estate sales contracts, limitation. (1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be

published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall send written notice of that intent to the office of the state superintendent of public instruction. School districts shall not sell the property for at least forty-five days following the date notification is mailed to the state superintendent of public instruction.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the average of the three appraisals made by the brokers or professionally designated real estate appraisers: *Provided*, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the average reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: *Provided*, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: *Provided further*, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: *Provided further*, That any licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: *Provided*, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein

authorized, governing school district real property contract sales. [1984 c 103 § 1; 1981 c 306 § 4; 1979 ex.s. c 16 § 1; 1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28.58.045.]

Severability—1981 c 306: See note following RCW 28A.02.110.

28A.58.090 Student learning objectives—Program identifying and establishing, scope—Review and reports. Every school district board of directors, being accountable to the citizens within its district as to the education offered to the students therein, shall, based on the timeline established by the superintendent of public instruction, develop a program identifying student learning objectives for their district in all courses of study included in the school district programs. The school district must evidence community participation in defining the objectives of such a program. The program of student learning objectives shall assure that the district's resources in the educational program, such as money, facilities, time, materials and personnel, are used so as to provide both economies in management and operation, and quality education in all subject areas and courses. The learning objectives shall be measurable as to the actual student attainment; student attainment shall be locally assessed annually and the student learning objectives program shall be reviewed at least every two years. In developing and reviewing the learning objectives, districts shall give specific attention to improving the depth of course content within courses and in coordinating the sequence in which subject matter is presented.

The superintendent of public instruction shall review implementation of the learning objectives law biennially and shall submit a report of such review to the legislature on or before January 1 of each odd-numbered year.

The state board of education shall examine the programs in each school district in the state for reasons of program approval as required in accordance with RCW 28A.41.130, as now or hereafter amended.

School districts may obtain assistance in carrying out their duties under this section from the educational service district of which they are a part. [1984 c 278 § 3; 1977 ex.s. c 305 § 1; 1975-'76 2nd ex.s. c 90 § 1.]

Severability—1984 c 278: See note following RCW 28A.58.094.

Summary of program objectives to be included in guide: RCW 28A.58.758.

28A.58.092 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.58.094 Goals for educational excellence—School district boards of directors to establish annual process. Each school district board of directors is encouraged to revise its goal-setting process and to begin immediately to establish an annual process of identifying measurable goals which concentrate on improving educational excellence in the district. This process of identifying goals should involve teachers, administrators, school directors, students, parents, business persons, and other community members. The annual goals and recognition of accomplishments should be reported by the

school district to the community each year. [1984 c 278 § 1.]

Severability—1984 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." [1984 c 278 § 24.]

28A.58.095 Salaries and compensation for employees—Limitations—Exclusions—Rules. (1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees. No school district board of directors may grant salary and compensation increases from any fund source whatsoever in excess of the amount and/or percentage as may be provided for employees as set forth in the state operating appropriations act in effect at the time the compensation is payable. No school district administrative group or administrative bargaining unit, or other nonbargaining unit employees as defined in RCW 41.59.020(4), and 41.56.030 may receive a total annual salary and compensation increase in excess of the amount and/or percentage as set forth in the state operating appropriations act.

(2) Increases in school district employee fringe benefit contributions by school districts shall be included for purposes of determining salary and compensation increases under this section if contributions to fringe benefits provided by a district exceed or, by virtue of the increase, will exceed the amount provided for fringe benefits in the state operating appropriations act in effect at the time the compensation is payable.

(3) For purposes of this section, salary and compensation shall not include the following:

(a) Payment for unused leave for illness or injury under RCW 28A.58.096, (b) Employer contributions for the following employee fringe benefits:

(i) Old Age Survivors Insurance

(ii) Workers' Compensation

(iii) Unemployment Compensation

(iv) Retirement benefits under the Washington State Retirement System.

(4) Provisions of any contract in force on March 20, 1981 which conflict with requirements of this section shall continue in effect until contract expiration. After expiration, any new contract executed between the parties shall be consistent with this section.

(5) The superintendent of public instruction shall ensure compliance with this section and shall adopt rules under chapter 34.04 RCW for that purpose. The superintendent shall monitor the salary and compensation increases provided to employees and administrators by school districts. [1984 c 245 § 1; 1983 c 275 § 1; 1981 c 16 § 2.]

Intent—Construction—1983 c 275: "This act is intended to effectuate the legislature's intent in the original enactment of chapter 182, Laws of 1980 and constitutes a readoption of the relevant portions of that law. This act shall be construed as being in effect since June 12, 1980." [1983 c 275 § 5.] "This act" consists of RCW 28A.58.096, 28A.58.099, the amendments to RCW 28A.58.095, and the repeal of RCW 28A.58.097 and 28A.58.100.

Severability—1981 c 16: "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." [1981 c 16 § 5.]

28A.58.108 High school diplomas—Issuance—Option to receive final transcripts—Notice. (1) School districts shall issue diplomas to students signifying graduation from high school upon the students' satisfactory completion of all local and state graduation requirements. Districts shall grant students the option of receiving a final transcript in addition to the regular diploma.

(2) School districts or schools of attendance shall establish policies and procedures to notify senior students of the transcript option and shall direct students to indicate their decisions in a timely manner. School districts shall make appropriate provisions to assure that students who choose to receive a copy of their final transcript shall receive such transcript after graduation. [1984 c 178 § 2.]

High school transcripts: RCW 28A.04.155.

28A.58.115 Associated student bodies—Powers and responsibilities affecting. As used in this section, an "associated student body" means the formal organization of the students of a school formed with the approval of and regulation by the board of directors of the school district in conformity to the rules and regulations promulgated by the superintendent of public instruction: *Provided*, That the board of directors of a school district may act or delegate the authority to an employee of the district to act as the associated student body for any school plant facility within the district containing no grade higher than the sixth grade.

The superintendent of public instruction, after consultation with appropriate school organizations and students, shall promulgate rules and regulations to designate the powers and responsibilities of the boards of directors of the school districts of the state of Washington in developing efficient administration, management, and control of moneys, records, and reports of the associated student bodies organized in the public schools of the state. [1984 c 98 § 1; 1975 1st ex.s. c 284 § 3; 1973 c 52 § 1.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting—Care of other moneys received by students for private purposes. There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.58.115. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW 28A.58.115 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.58.440 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.66 RCW: *Provided*, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

Nothing in this section shall prevent those portions of student-generated moneys in the associated student body program fund, budgeted or otherwise, which constitute bona fide voluntary donations and are identified as donations at the time of collection from being used for such scholarship, student exchange and charitable purposes as the appropriate governing body representing the associated student body shall determine, and for such purposes, said moneys shall not be deemed public moneys under section 7, Article VIII, of the state Constitution.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: *Provided*, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service. [1984 c 98 § 2; 1982 c 231 § 1; 1977 ex.s. c 160 § 1; 1975 1st ex.s. c 284 § 2.]

Severability—1982 c 231: "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." [1982 c 231 § 2.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

Establishment of associated student body fund: RCW 28A.58.441.

28A.58.195 Grading policies—Option to consider attendance. Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the state board of education under RCW 28A.04.132. [1984 c 278 § 7.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28A.58.560 Tax deferred annuities. The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796, as now or hereafter amended. The superintendent of public instruction and educational service district superintendents, if eligible, may also be provided with such annuities.

At the request of at least five employees, the employees' employer shall arrange for the purchase of tax deferred annuity contracts which meet the requirements of 26 U.S.C., section 403(b), as now or hereafter amended, for the employees from any company the employees may choose that is authorized to do business in this state through a Washington-licensed insurance agent that the employees may select. Payroll deductions shall be made in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contracts. Employees' rights under the annuity contract are nonforfeitable except for the failure to pay premiums.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents shall not restrict, except as provided in this section, employees' right to select the tax deferred annuity of their choice or the agent, broker, or company licensed by the state of Washington through which the tax deferred annuity is placed or purchased, and shall not place limitations on the time or place that the employees make the selection.

The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents may each adopt rules regulating the sale of tax deferred annuities which: (1) Prohibit solicitation of employees for the purposes of selling tax deferred annuities on school premises during normal school hours; (2) only permit the solicitation of tax deferred annuities by agents, brokers, and companies licensed by the state of Washington; and (3) require

participating companies to execute reasonable agreements protecting the respective employers from any liability attendant to procuring tax deferred annuities. [1984 c 228 § 1; 1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.756 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.58.772 Educational programs for residential school residents—School district to conduct—Scope of duties and authority. Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW 28A.58.075 and 28A.58.245 or pursuant to chapter 39.34 RCW, each as now or hereafter amended, conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW 28A.58.776, as now or hereafter amended, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are five and less than twenty-one years of age until the 1984-85 school year and, commencing with the 1984-85 school year, for residents who are four years of age and less than twenty-one years of age and, commencing with the 1985-86 school year, for residents who are three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to chapter 28A.13 RCW, as now or hereafter amended, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: *Provided*,

That a preschool special education program may be provided for handicapped residential school students;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education. [1984 c 160 § 3; 1979 ex.s. c 217 § 2.]

Severability—1984 c 160: See note following RCW 28A.13.010.

Effective date—**Severability**—1979 ex.s. c 217: See notes following RCW 28A.58.770.

28A.58.800 Transitional bilingual instruction program—Short title—Purpose. RCW 28A.58.800 through 28A.58.810 shall be known and cited as "The Transitional Bilingual Instruction Act". The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.58.800 through 28A.58.810 to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs. [1984 c 124 § 1; 1979 c 95 § 1.]

Severability—1979 c 95: "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 95 § 9.]

28A.58.801 Transitional bilingual instruction program—Annual report by superintendent of public instruction. The superintendent of public instruction shall review annually the transitional bilingual instruction program and shall submit a report of such review to the legislature on or before January 1 of each year. [1984 c 124 § 8.]

28A.58.802 Transitional bilingual instruction program—Definitions. As used in RCW 28A.58.800 through 28A.58.810, unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: *Provided*, That the

program shall include testing in the subject matter in English; or

(b) In those cases in which the use of two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning. [1984 c 124 § 2; 1979 c 95 § 2.]

Severability—1979 c 95: See note following RCW 28A.58.800.

28A.58.804 Transitional bilingual instruction program—School board duties. Every school district board of directors shall:

(1) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction.

(2) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program.

(3) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases. If, however, a preliminary interview indicates little or no English speaking ability, eligibility testing shall not be necessary.

(4) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction.

(5) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models. [1984 c 124 § 3; 1979 c 95 § 3.]

Effective date—1979 c 95 § 3: "Section 3 of this act shall take effect September 1, 1980." [1979 c 95 § 7.] Section 3 of this act, 1979 c 95, refers to RCW 28A.58.804.

Severability—1979 c 95: See note following RCW 28A.58.800.

28A.58.806 Transitional bilingual instruction program—Advisory committee participation. Every school district board of directors may appoint, maintain, and receive recommendations from an advisory committee which includes parents whose children are in the transitional bilingual instruction program, teachers, and other staff members. [1984 c 124 § 4; 1979 c 95 § 4.]

Severability—1979 c 95: See note following RCW 28A.58.800.

28A.58.808 Transitional bilingual instruction program—Guidelines and rules. The superintendent of public instruction shall:

(1) Promulgate and issue program development guidelines to assist school districts in preparing their programs;

(2) Promulgate rules for implementation of RCW 28A.58.800 through 28A.58.810 in accordance with chapter 34.04 RCW. The rules shall be designed to maximize the role of school districts in selecting programs appropriate to meet the needs of eligible students. The rules shall identify the process and criteria to be used to determine when a student is no longer eligible for transitional bilingual instruction pursuant to RCW 28A.58.800 through 28A.58.810. [1984 c 124 § 5; 1979 c 95 § 5.]

Severability—1979 c 95: See note following RCW 28A.58.800.

28A.58.809 Transitional bilingual instruction program—School districts may enrich. School districts may enrich the programs required by RCW 28A.58.800 through 28A.58.810: *Provided*, That such enrichment shall not constitute a basic education responsibility of the state. [1984 c 124 § 6.]

28A.58.840 Washington award for vocational excellence. See RCW 28C.04.520 through 28C.04.550.

Chapter 28A.60

PROVISIONS APPLICABLE ONLY TO SECOND AND THIRD CLASS DISTRICTS

Sections

28A.60.350 Housing for superintendent—Authorized—Limitation.
28A.60.352 Repealed.

28A.60.350 Housing for superintendent—Authorized—Limitation. Notwithstanding any other provision of law, any second class school district with an enrollment of three hundred students or less may provide housing for the superintendent of the school district, or any person acting in the capacity of superintendent, by such means and with such moneys as the school district shall determine: *Provided*, That any second class school district presently providing such housing may continue to provide the same: *Provided further*, That if such housing is exempt from real property taxation by virtue of school district ownership, the school district shall charge for such housing, rent at least equal to the amount of real property tax for which such housing would be liable were it not so owned. [1984 c 40 § 10; 1975 1st ex.s. c 41 § 1.]

Severability—1984 c 40: See note following RCW 28A.02.250.

Classes of districts—Change of classification delay of authorized: RCW 28A.57.145. generally: RCW 28A.57.140.

28A.60.352 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.65 SCHOOL DISTRICT BUDGETS

Sections

28A.65.435 Budget—Disposition of copies.
28A.65.480 First class school districts—Emergency or additional appropriation resolutions—Procedure.
28A.65.485 Second class school districts—Additional appropriation resolutions—Procedure.

28A.65.435 Budget—Disposition of copies. Copies of the budgets for all local school districts shall be filed with the superintendent of public instruction no later than September 10th. One copy will be retained by the educational service district. [1984 c 128 § 8; 1983 c 59 § 5; 1975-'76 2nd ex.s. c 118 § 8.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.65.400.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.480 First class school districts—Emergency or additional appropriation resolutions—Procedure. (1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before incurring expenditures in excess of the appropriation, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW 28A.65.420. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Copies of all adopted appropriation resolutions shall be filed with the educational service district who shall forward one copy each to the office of the superintendent of public instruction. One copy shall be retained by the educational service district. [1984 c 128 § 9; 1983 c 59 § 11; 1975-'76 2nd ex.s. c 118 § 17.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.65.400.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.485 Second class school districts—Additional appropriation resolutions—Procedure. Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the appropriation from any fund for any reason, the school district board of directors, before incurring expenditures in excess of appropriation, shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW 28A.65.420. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

Copies of all appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district. [1984 c 128 § 10; 1983 c 59 § 12; 1975-'76 2nd ex.s. c 118 § 18.]

Application—Effective date—Severability—1983 c 59: See notes following RCW 28A.65.400.

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Chapter 28A.66

SCHOOL DISTRICT WARRANTS, AUDITOR'S DUTIES RELATING TO

Sections

28A.66.090 Repealed.

28A.66.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.87

OFFENSES RELATING TO SCHOOLS, SCHOOL PERSONNEL—PENALTIES

Sections

- 28A.87.010 Abusing or insulting teachers, liability for—Penalty. (Effective July 1, 1985.)
- 28A.87.060 Disturbing school, school activities or meetings—Penalty. (Effective July 1, 1985.)
- 28A.87.070 Examination questions—Disclosing—Penalty. (Effective July 1, 1985.)
- 28A.87.130 Property, failure of officials or employees to account for—Mutilation by—Penalties. (Effective July 1, 1985.)
- 28A.87.140 Teacher's abuse of pupil—Penalty. (Effective July 1, 1985.)

28A.87.010 Abusing or insulting teachers, liability for—Penalty. (Effective July 1, 1985.) Any person who shall insult or abuse a teacher anywhere on the

school premises while such teacher is carrying out his official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars. [1984 c 258 § 314; 1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28.87.010.]

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.

28A.87.060 Disturbing school, school activities or meetings—Penalty. (Effective July 1, 1985.) Any person who shall wilfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars. [1984 c 258 § 315; 1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28.87.060.]

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.

28A.87.070 Examination questions—Disclosing—Penalty. (Effective July 1, 1985.) Any person having access to any question or questions prepared for the examination of teachers or common school pupils, who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars. [1984 c 258 § 316; 1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28.87.070.]

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.

28A.87.130 Property, failure of officials or employees to account for—Mutilation by—Penalties. (Effective July 1, 1985.) Any school district official or employee who shall refuse or fail to deliver to his qualified successor all books, papers, and records pertaining to his position, or who shall wilfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: *Provided*, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred. [1984 c 258 § 317; 1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28.87.130, part.]

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.

28A.87.140 Teacher's abuse of pupil—Penalty. (Effective July 1, 1985.) Any teacher who shall maltreat or abuse any pupil by administering any unreasonable punishment, or who shall inflict punishment on the head of a pupil, upon conviction thereof shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not exceeding one hundred dollars. [1984 c 258 § 318; 1969 ex.s. c 199 § 61; 1969 ex.s. c 223 § 28A.87-.140. Prior: 1909 c 97 p 360 § 9; RRS § 5052; prior: 1903 c 156 § 9; 1897 c 118 § 167; 1890 p 371 § 43; Code 1881 § 3239. Formerly RCW 28.87.140.]

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.

Chapter 28A.92

COMPACT FOR EDUCATION

Sections

28A.92.050 State representation on education commission—Payment of travel expenses of members—Limitations. (Effective July 1, 1985.)

28A.92.050 State representation on education commission—Payment of travel expenses of members—Limitations. (Effective July 1, 1985.) Each member of the commission from the state of Washington shall be paid, from funds appropriated by the legislature of the state of Washington for that purpose, travel expenses in accordance with RCW 43.03.050 and 43.03.060. Such member may, regardless of any charter or statutory provision to the contrary, be an officer or employee holding another public position. [1984 c 287 § 61; 1975-'76 2nd ex.s. c 34 § 71; 1969 ex.s. c 223 § 28A.92.050. Prior: 1967 c 83 § 5. Formerly RCW 28.92.050.]

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.

Chapter 28A.98

CONSTRUCTION

Sections

28A.98.020 Repealed.

28A.98.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 28B HIGHER EDUCATION

Chapters

- 28B.07 Washington higher education facilities authority—Private nonprofit educational institutions.
- 28B.10 Colleges and universities generally.
- 28B.14F Capital improvements for institutions of higher education—Bond issues.
- 28B.15 College and university fees.
- 28B.16 State higher education personnel law.
- 28B.20 University of Washington.
- 28B.30 Washington State University.
- 28B.50 Community colleges.
- 28B.65 High-technology education and training.
- 28B.80 Council for postsecondary education in the state of Washington.

Chapter 28B.07

WASHINGTON HIGHER EDUCATION FACILITIES AUTHORITY—PRIVATE NONPROFIT EDUCATIONAL INSTITUTIONS

Sections

28B.07.030 Washington higher education facilities authority—Created—Members—Chairperson—Records—Quorum—Compensation and travel expenses. (Effective July 1, 1985.)

28B.07.030 Washington higher education facilities authority—Created—Members—Chairperson—Records—Quorum—Compensation and travel expenses. (Effective July 1, 1985.) (1) The Washington higher education facilities authority is hereby established as a public body corporate and politic, with perpetual corporate succession, constituting an agency of the state of Washington exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010.

(2) The authority shall consist of seven members as follows: The governor, lieutenant governor, executive coordinator of the state council for postsecondary education, and four public members, one of whom shall be the president of a higher education institution at the time of appointment. The public members shall be residents of the state and appointed by the governor, subject to confirmation by the senate, on the basis of their interest or expertise in the provision of higher education and the financing of higher education. The public members of the authority shall serve for terms of four years. The initial terms of the public members shall be staggered in a manner determined by the governor. In the event of a vacancy on the authority due to death, resignation, or removal of one of the public members, and upon the expiration of the term of any public member, the governor shall appoint a successor for a term expiring on the fourth anniversary of the successor's date of the appointment. If any of the state offices are 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, wilful neglect of duty, or any other cause after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing.

(3) The governor shall serve as chairperson of the authority. The authority shall elect annually one of its members as secretary. If the governor shall be absent from a meeting of the authority, the secretary shall preside. However, the governor may designate an employee of the governor's office to act on the governor's behalf in all other respects during the absence of the governor at any meeting of the authority. If the designation is in writing and is presented to the person presiding at the meetings of the authority who is included in the designation, the vote of the designee has the same effect as if cast by the governor.

(4) Any person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute book or a journal of the authority, and the authority's official seal, if any. The person may cause copies to be made of all minutes and other records and documents of the authority, and may give certificates to the effect that such copies are true copies. All persons dealing with the authority may rely upon the certificates.

(5) Four members of the authority constitute a quorum. The authority may act on the basis of a motion except when authorizing the issuance and sale of bonds, in which case the authority shall act by resolution. Bond resolutions and other resolutions shall be adopted upon the affirmative vote of four members of the authority, and shall be signed by those members voting yes. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting of the authority. All actions taken by the authority shall take effect immediately without need for publication or other public notice. A vacancy in the membership of the authority does not impair the power of the authority to act under this chapter.

(6) The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses as determined by the authority incurred in the discharge of their duties under this chapter. [1984 c 287 § 62; 1983 c 169 § 3.]

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

Chapter 28B.10

COLLEGES AND UNIVERSITIES GENERALLY

Sections

- 28B.10.045 Uniform minimum entrance requirements—Dissemination to high schools—Report to legislature—Special admission procedures. (Effective July 1, 1986.)
- 28B.10.050 Entrance requirements exceeding minimum requirements. (Effective July 1, 1986.)

- 28B.10.052 Uniform academic transfer policies for students completing state community college associate degrees.
- 28B.10.648 Employees—Peer review committees—Members' immunity—Proceedings—Statement of reasons—Legal representation of members.

28B.10.045 Uniform minimum entrance requirements—Dissemination to high schools—Report to legislature—Special admission procedures. (Effective July 1, 1986.) (1) Notwithstanding the provisions of RCW 28B.10.050, the boards of regents or trustees of the state universities, regional universities, and The Evergreen State College shall mutually establish uniform minimum entrance requirements.

The council for postsecondary education shall publish and disseminate the entrance requirements to all high schools in this state. Commencing July 1, 1986, and by July 1 annually thereafter, the council for postsecondary education shall report to the legislature on the entrance requirements.

(2) The boards of regents or trustees shall ensure that special admission procedures shall be available to applicants who may be unable to meet the requirements in subsection (1) of this section for admission. Such applicants must be able to submit additional evidence of academic capability sufficient to ensure that the applicant will benefit from or contribute to the institutions' undergraduate program: *Provided*, That such special admission procedures shall not be interpreted as guaranteeing admittance to the institutions. The special admission of students into educational opportunity programs shall be included in this special admission procedure. [1984 c 278 § 18.]

Severability—1984 c 278: See note following RCW 28A.58.094.
Effective date—1984 c 278: See note following RCW 28A.05.070.

28B.10.050 Entrance requirements exceeding minimum requirements. (Effective July 1, 1986.) Except as the legislature shall otherwise specifically direct, the boards of regents and the boards of trustees for the state universities, the regional universities, and The Evergreen State College may establish entrance requirements for their respective institutions of higher education that exceed the minimum entrance requirements established under RCW 28B.10.045. [1984 c 278 § 19; 1977 ex.s. c 169 § 9; 1969 ex.s. c 223 § 28B.10.050. Prior: 1917 c 10 § 9; RRS § 4540. Formerly RCW 28.76.050.]

Severability—1984 c 278: See note following RCW 28A.58.094.
Effective date—1984 c 278: See note following RCW 28A.05.070.
Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

28B.10.052 Uniform academic transfer policies for students completing state community college associate degrees. The boards of regents or trustees of the state universities, regional universities, and The Evergreen State College, in consultation with the council for postsecondary education, shall mutually set uniform academic transfer policies for students who complete Washington state community college associate degrees. [1984 c 278 § 20.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28B.10.648 Employees—Peer review committees—Members' immunity—Proceedings—Statement of reasons—Legal representation of members.

(1) Employees, agents, or students of institutions of higher education serving on peer review committees which recommend or decide on appointment, reappointment, tenure, promotion, merit raises, dismissal, or other disciplinary measures for employees of the institution, are immune from civil actions for damages arising from the good faith performance of their duties as members of the committees. Individuals who provide written or oral statements in support of or against a person reviewed are also immune from civil actions if their statements are made in good faith.

(2) Peer review proceedings shall be pursuant to rules and regulations promulgated by the respective institutions of higher education.

(3) Upon the request of an evaluated person, the appropriate administrative officer of the institution shall provide a statement of the reasons of the peer review committees and of participating administrative officers for a final unfavorable decision on merit, promotion, tenure or reappointment. In the case of a disciplinary or dismissal proceeding, a statement of reasons shall be provided by the reviewing committee to the evaluated person for any decision unfavorable to such person.

(4) The institutions of higher education shall provide legal representation for any past or current members of the peer review committee and for individuals who testify orally or in writing in good faith before such committee in any legal action which may arise from committee proceedings. [1984 c 137 § 1.]

Severability—1984 c 137: "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 137 § 2.]

Chapter 28B.14F

CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION—BOND ISSUES

(Formerly: 1981 Bond issue for capital improvements for institutions of higher education (1981 c 232))

Sections

1984 BOND ISSUE

- 28B.14F.070 Bonds authorized—Amount—Condition.
- 28B.14F.072 Disposition of proceeds from sale of bonds—Use.
- 28B.14F.074 Existing fund utilized for payment of principal and interest.
- 28B.14F.076 Legislature may provide additional methods of raising money.
- 28B.14F.078 Bonds as legal investment for public funds.
- 28B.14F.952 Severability—1984 c 264.

1984 BOND ISSUE

28B.14F.070 Bonds authorized—Amount—Condition. For the purpose of acquiring land and providing needed capital improvements consisting of the acquisition, design, construction, repair, modification, and equipping of state buildings and facilities, including

heating and utility distribution systems, for the community college system and the University of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million six hundred seventy 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 264 § 1.]

28B.14F.072 Disposition of proceeds from sale of bonds—Use. The proceeds from the sale of the bonds authorized in RCW 28B.14F.070, 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 general fund and shall be used exclusively for the purposes specified in RCW 28B.14F.070 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 264 § 2.]

28B.14F.074 Existing fund utilized for payment of principal and interest. The state higher education bond retirement fund of 1977 shall be used for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070.

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 higher education bond retirement fund of 1977 an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 28B.14F.070 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 264 § 3.]

28B.14F.076 Legislature may provide additional methods of raising money. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.14F.070, and RCW 28B.14F.074 shall not be deemed to provide an exclusive method for the payment. [1984 c 264 § 4.]

28B.14F.078 Bonds as legal investment for public funds. The bonds authorized in RCW 28B.14F.070 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 264 § 5.]

28B.14F.952 Severability—1984 c 264. 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 264 § 6.]

Chapter 28B.15

COLLEGE AND UNIVERSITY FEES

Sections

28B.15.014	Certain nonresidents exempted from tuition and fee differential.
28B.15.522	Community colleges—Waiver of tuition and fees for long-term unemployed or underemployed persons—Conditions—Rules. (Effective until July 1, 1986.)
28B.15.543	Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications—Report to legislature.
28B.15.545	Waiver of tuition and fees for recipients of the Washington award for vocational excellence.
28B.15.615	Exemption from resident operating fees for persons holding graduate service appointments.

28B.15.014 Certain nonresidents exempted from tuition and fee differential. The following nonresidents shall be exempted from paying the nonresident tuition and fee differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Active-duty military personnel of field grade or lower rank and the spouses and dependents of such military personnel for the first twelve months they are stationed in the state of Washington.

(4) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship. [1984 c 232 § 1; 1982 1st ex.s. c 37 § 3; 1971 ex.s. c 273 § 4.]

Severability—1984 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." [1984 c 232 § 2.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.522 Community colleges—Waiver of tuition and fees for long-term unemployed or underemployed persons—Conditions—Rules. (Effective until July 1, 1986.) (1) The boards of trustees of the community college districts may waive the tuition, operation, and services and activities fees for persons under subsection (2) of this section pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and new course sections shall not be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics which would affect budgetary determinations; and

(c) Persons who enroll under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisite requirements.

(2) A person is eligible for the waiver under subsection (1) of this section if the person:

(a) Meets the requirements for a resident student under RCW 28B.15.011 through 28B.15.015;

(b) Is twenty-one years of age or older;

(c) At the time of initial enrollment under subsection (1) of this section, has not attended an institution of higher education for the previous six months;

(d) Is not receiving or is not entitled to receive unemployment compensation of any nature under Title 50 RCW; and

(e) Has an income at or below the need standard established under chapter 74.04 RCW by the department of social and health services.

(3) The state board for community college education shall adopt rules to carry out this section. [1984 c 50 § 2.]

Intent—1984 c 50: "The legislature finds that providing educational opportunities to the long-term unemployed and underemployed is a valuable incentive to these individuals to reestablish themselves as contributing members of society. To this end, the legislature finds that creating the opportunity for these people to attend the state's community colleges on a space available basis, without charge, will provide the impetus for self-improvement without drawing upon the limited resources of the state or its institutions." [1984 c 50 § 1.]

Severability—1984 c 50: "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 50 § 4.]

Expiration date—1984 c 50: "This act shall expire July 1, 1986." [1984 c 50 § 3.]

28B.15.543 Waiver of tuition and fees for recipients of the Washington scholars award—Qualifications—Report to legislature. (1) The boards of regents and trustees of the regional universities, state universities, and The Evergreen State College shall waive tuition, operating, and service and activities fees for two years for recipients of the Washington scholars award under RCW 28A.58.820 through 28A.58.832. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation

and maintain a minimum grade point average at the college or university equivalent to 3.50.

(2) The council for postsecondary education shall report to the legislature on or before January 15, 1986, on the tuition waivers for the Washington scholars program. The report shall include an evaluation and recommendations on the effect of extending the waivers for a period of four years. [1984 c 278 § 17.]

Severability—1984 c 278: See note following RCW 28A.58.094.

28B.15.545 Waiver of tuition and fees for recipients of the Washington award for vocational excellence. The boards of regents and trustees of the state universities, regional universities, The Evergreen State College, and the community colleges shall waive tuition, operating, and services and activities fees for a maximum of one academic year for recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. [1984 c 267 § 6.]

28B.15.615 Exemption from resident operating fees for persons holding graduate service appointments. The boards of regents of the state universities and the boards of trustees of the regional universities are authorized to exempt from paying the resident operating fee any person who is enrolled in such institution and who holds a graduate service appointment, designated as such by that institution, involving not less than twenty hours per week. The exemption shall be for the term the person shall hold the appointment. Until one year after June 7, 1984, the stipend paid to persons holding the graduate service appointments paid from state funds shall be reduced in an amount equal to the resident operating fee so waived, and the institution shall pay to the general fund from moneys appropriated an amount equivalent to the amount of waived operating fee revenue so as to ensure that the general fund is not negatively impacted. The 1985–87 and subsequent biennial appropriations to the institutions shall be based on the level of reduced stipend resulting from this section. The stipend paid to persons holding graduate student appointments from nonstate funds shall be reduced and the institution reimbursed from such funds in an amount equal to the resident operating fee which funds shall be transmitted to the general fund. [1984 c 105 § 1.]

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.060 State higher education personnel board—Members—Qualifications—Compensation and travel expenses of members—Officers—Quorum—Public record—Personnel director—Board personnel. (Effective July 1, 1985.)

Peer review committees—Proceedings—Statement of reasons: RCW 28B.10.648.

28B.16.060 State higher education personnel board—Members—Qualifications—Compensation and travel expenses of members—Officers—Quorum—Public record—Personnel director—Board personnel. (Effective July 1, 1985.) (1) There is hereby created a state higher education personnel board composed of three members appointed by the governor, subject to confirmation by the senate. The first such board shall be appointed within thirty days after the effective date of this chapter for terms of two, four, and six years. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) The board shall appoint a personnel director who shall be the chief staff officer for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the personnel director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the state board for community college education. When necessary, the personnel director may request the creation of task forces drawn from the four-year institutions of higher education, and representatives of the various state community colleges through the state board for community college education, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business. [1984 c 287 § 63; 1981 c 338 § 19; 1975-'76 2nd ex.s. c 34 § 73; 1969 ex.s. c 36 § 6. Formerly RCW 28.75.060.]

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.

Chapter 28B.20

UNIVERSITY OF WASHINGTON

Sections

28B.20.277 Mathematics, engineering, and science achievement program—Establishment and administration through university.

28B.20.277 Mathematics, engineering, and science achievement program—Establishment and administration through university. See RCW 28A.03.432.

Chapter 28B.30

WASHINGTON STATE UNIVERSITY

Sections

28B.30.530 Small business development center—Services—Use of funds.

28B.30.533 Construction of RCW 28B.30.530—Conflict with federal requirements.

28B.30.530 Small business development center—Services—Use of funds. (1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with public and private community development and economic assistance agencies and shall work towards the goal of coordinating activities with such agencies to avoid duplication of services.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business and development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. [1984 c 77 § 1.]

28B.30.533 Construction of RCW 28B.30.530—Conflict with federal requirements. If any part of RCW 28B.30.530 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 RCW 28B.30.530 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 RCW 28B.30.530 in its application to the agencies concerned. [1984 c 77 § 2.]

Chapter 28B.50

COMMUNITY COLLEGES

(Formerly: Community college act of 1967)

Sections

28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Compensation and travel expenses—Removal. (Effective July 1, 1985.)

28B.50.311 Community college fees—Waiver of tuition and fees for long-term unemployed or underemployed persons—Conditions—Rules.

28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Compensation and travel expenses—Removal. (Effective July 1, 1985.) There is hereby created the "state board for community college education", to consist of eight members, one from each congressional district, as now or hereafter existing, who shall be appointed by the governor, with the consent of the senate. The successors of the members initially appointed shall be appointed for terms of four years except that any persons appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. All members shall be citizens and bona fide residents of the state. No member of the college board shall be, during his term of office, also a member of the state board of education, a member of a K-12 board, a member of the governing board of any public or private educational institution, a member of a community college board of trustees, or an employee of any of the above boards, or have any direct pecuniary interest in education within this state.

The board shall not be deemed unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

Members of the college board shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for each day actually spent in attending to the duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500. [1984 c 287 § 64; 1982 1st ex.s. c 30 § 9; 1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5. Like section formerly RCW 28.85.050.]

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.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.510.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Appointment of director of state system of community colleges, by: RCW 28B.50.060.

Bond issue for capital projects for community colleges, 1981, board duties: RCW 28B.59D.010 through 28B.59D.070.

Displaced homemaker act, board participation: RCW 28B.04.080.

Employees of, appointment and employment of: RCW 28B.50.060.

Powers and duties generally: RCW 28B.50.090.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Vocational education, board duties relating to: Chapter 28C.04 RCW.

28B.50.311 Community college fees—Waiver of tuition and fees for long-term unemployed or underemployed persons—Conditions—Rules. See RCW 28B.15.522.

Chapter 28B.65

HIGH-TECHNOLOGY EDUCATION AND TRAINING

Sections

28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses.

28B.65.040 Washington high-technology coordinating board created—Members—Travel expenses. (1) The Washington high-technology coordinating board is hereby created.

(2) The board shall be composed of seventeen members as follows:

(a) Eleven shall be citizen members appointed by the governor, with the consent of the senate, for four-year terms. In making the appointments the governor shall ensure that a balanced geographic representation of the state is achieved and shall attempt to choose persons experienced in high-technology fields, including at least one representative of labor. Any person appointed to fill a vacancy occurring before a term expires shall be appointed only for the remainder of that term; and

(b) Six of the members shall be as follows: One representative from each of the state's two research universities, one representative of the state college and regional universities, the director for the state system of community colleges or the director's designee, the superintendent of public instruction or the superintendent's designee, and a representative of the council for postsecondary education.

(3) Members of the board shall not receive any salary for their services, but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for each day actually spent in attending to duties as a member of the board.

(4) A citizen member of the board shall not be, during the term of office, a member of the governing board of any public or private educational institution, or an employee of any state or local agency. [1984 c 66 § 1; 1983 1st ex.s. c 72 § 5.]

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON

(Formerly: Council on higher education in the state of Washington)

Sections

28B.80.110 Members—Compensation and travel expenses. (Effective July 1, 1985.)

28B.80.295 Uniform academic transfer policies for students completing state community college associate degrees.

28B.80.110 Members—Compensation and travel expenses. (Effective July 1, 1985.) Members of the council shall be compensated in accordance with RCW 43.03.240 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 65; 1975-'76 2nd ex.s. c 34 § 77; 1969 ex.s. c 277 § 12. Formerly RCW 28.89.110.]

Sunset Act application: See note following chapter digest.

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.

28B.80.295 Uniform academic transfer policies for students completing state community college associate degrees. See RCW 28B.10.052.

Title 28C

VOCATIONAL EDUCATION

Chapters

28C.04 Vocational education.

Chapter 28C.04

VOCATIONAL EDUCATION

Sections

28C.04.070 Commission—Compensation and travel expenses of members. (Effective July 1, 1985.)

28C.04.300 State advisory council on vocational education—Created—Members—Qualifications—Terms—Chairman—Meetings—Travel expenses. (Effective July 1, 1985.)

28C.04.520 Washington award for vocational excellence—Intent.

28C.04.525 Washington award for vocational excellence—Establishment—Purposes.

28C.04.530 Washington award for vocational excellence—Commission's duties.

28C.04.535 Washington award for vocational excellence—Granted annually—Notice—Presentation.

28C.04.540 Washington award for vocational excellence—Commission may accept contributions.

28C.04.545 Washington award for vocational excellence—Fee waivers by vocational-technical institutes.

28C.04.550 Washington award for vocational excellence—When effective—Reports to legislature.

28C.04.070 Commission—Compensation and travel expenses of members. (Effective July 1, 1985.) Members of the commission shall be compensated in accordance with RCW 43.03.240 and will receive travel

expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 66; 1975-'76 2nd ex.s. c 34 § 79; 1975 1st ex.s. c 174 § 8.]

Sunset Act application: See note following Title 28C RCW digest.

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.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.300 State advisory council on vocational education—Created—Members—Qualifications—Terms—Chairman—Meetings—Travel expenses. (Effective July 1, 1985.) (1) There is hereby created a state advisory council on vocational education, hereinafter referred to as the "advisory council", consisting of not less than thirteen members appointed by the governor, without regard to the civil service laws, for terms of three years, except that in the case of the initial members, at least four shall be appointed for terms of one year each and at least four shall be appointed for terms of two years each, and appointments to fill vacancies shall be only for such terms as remain unexpired. The advisory council shall include persons who are:

(a) Familiar with the vocational needs and the problems of management and labor in the state, and a person or persons representing state industrial and economic development agencies;

(b) Representative of community colleges and other institutions of higher learning, area vocational schools, technical institutes, and postsecondary or adult education agencies or institutions, which may provide programs of vocational or technical education and training;

(c) Familiar with the administration of state and local vocational education programs, and a person or persons having special knowledge, experience, or qualifications with respect to vocational education and who are not involved in the administration of state or local vocational education programs;

(d) Familiar with programs of technical and vocational education, including programs in comprehensive secondary schools;

(e) Representative of local educational agencies, and a person or persons who are representative of school boards;

(f) Representative of manpower and vocational education agencies in the state, including a person or persons from the comprehensive area manpower planning system of the state;

(g) Representing school systems with large concentrations of academically, socially, economically, and culturally disadvantaged students;

(h) Possessed of special knowledge, experience, or qualifications, with respect to the special educational needs of physically or mentally handicapped persons; and

(i) Representative of the general public, including a person or persons representative of and knowledgeable about the poor and disadvantaged, who are not qualified for membership under any of the preceding clauses of this paragraph.

The advisory council shall meet at least four times a year at the call of the chairman, who shall be selected by vote of the members.

(2) Members of the advisory council shall receive their travel expenses while engaged in the business of the advisory council in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 67; 1975-'76 2nd ex.s. c 34 § 76; 1969 ex.s. c 283 § 52. Formerly RCW 28B.50.245, 28.85.245.]

Sunset Act application: See note following Title 28C RCW digest.

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.

Severability—1969 ex.s. c 283: See note following RCW 28A.02.061.

28C.04.520 Washington award for vocational excellence—Intent. Every year community colleges, vocational-technical institutes, and high schools graduate students who have distinguished themselves by their outstanding performance in their occupational training programs. The legislature intends to recognize and honor these students by establishing a Washington award for vocational excellence. [1984 c 267 § 1.]

28C.04.525 Washington award for vocational excellence—Establishment—Purposes. The Washington award for vocational excellence program is established. The purposes of this annual program are to:

(1) Maximize public awareness of the achievements, leadership ability, and community contributions of the state's public vocational-technical students;

(2) Emphasize the dignity of work in our society;

(3) Instill respect for those who become skilled in crafts and technology;

(4) Recognize the value of vocational education and its contribution to the economy of this state;

(5) Foster business, labor, and community involvement in vocational-technical training programs and in this award program; and

(6) Recognize the outstanding achievements of up to three graduating vocational or technical students in each legislative district. [1984 c 267 § 2.]

28C.04.530 Washington award for vocational excellence—Commission's duties. (1) The commission for vocational education shall have the responsibility for the development and administration of the Washington award for vocational excellence program. The commission shall develop the program in consultation with other state agencies and private organizations having interest and responsibility in vocational education, including but not limited to: The state board for community college education, the office of the superintendent of public instruction, a voluntary professional association of vocational educators, and representatives from business, labor, and industry.

(2) The commission shall establish a planning committee to develop the criteria for screening and selecting the students who will receive the award. This criteria

shall include but not be limited to the following characteristics: Proficiency in their chosen fields, attendance, attitude, character, leadership, and civic contributions. [1984 c 267 § 3.]

28C.04.535 Washington award for vocational excellence—Granted annually—Notice—Presentation. The Washington award for vocational excellence shall be granted annually. The commission shall notify the students receiving the award, their vocational instructors, local chambers of commerce, the legislators of their respective districts, and the governor, after final selections have been made. The commission, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the selected students. Awards shall be presented in public ceremonies at times and places determined by the commission in cooperation with the office of the governor. [1984 c 267 § 4.]

28C.04.540 Washington award for vocational excellence—Commission may accept contributions. The commission 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 any federal, state, or local agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the Washington award for vocational excellence program. The commission shall encourage maximum participation from business, labor, and community groups. The commission shall also coordinate, where feasible, the contribution activities of the various participants.

The commission shall not make expenditures from funds collected under this section until February 15, 1985. [1984 c 267 § 5.]

28C.04.545 Washington award for vocational excellence—Fee waivers by vocational-technical institutes. The respective governing boards of the public vocational-technical institutes shall provide fee waivers for a maximum of one school year for recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540. To qualify for the waiver, recipients shall enter the public vocational-technical institute within three years of receiving the award. [1984 c 267 § 7.]

28C.04.550 Washington award for vocational excellence—When effective—Reports to legislature. The Washington award for vocational excellence shall be effective commencing with the 1984-85 academic year. The commission for vocational education shall report on the program to the legislature and to the governor by January 15, 1985. The report shall include a description of the program, a copy of any rules implementing the program, a list of the participants, and the commission's recommendations for any additional statutory changes needed to improve the program.

Thereafter, the commission shall report on the results and effectiveness of this award program to the legislature and the governor on or before January 15 of each odd-numbered year. The 1987 report shall include an evaluation of the effects of expanding the tuition and fee waiver period from one to two years. [1984 c 267 § 8.]

Title 29 ELECTIONS

Chapters

- 29.01** Definitions.
- 29.04** General provisions.
- 29.07** Registration of voters.
- 29.18** Partisan primaries.
- 29.27** Certificates and notices.
- 29.30** Ballots.
- 29.36** Absentee voting.
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- 29.80** Candidates' pamphlet.
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- 29.81A** Local voters' pamphlets. (Effective January 1, 1985.)
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Political advertising: RCW 42.17.510 through 42.17.540.

Chapter 29.01 DEFINITIONS

Sections

- 29.01.043 County auditor. (Effective January 1, 1985.)
- 29.01.087 Local voters' pamphlet. (Effective January 1, 1985.)

29.01.043 County auditor. (Effective January 1, 1985.) "County auditor" includes the county auditor in a noncharter county or the officer, irrespective of title, having the overall responsibility to maintain voter registration and to conduct state and local elections in a charter county. [1984 c 106 § 1.]

Effective date—Severability—1984 c 106: See RCW 29.81A.900 and 29.81A.901.

29.01.087 Local voters' pamphlet. (Effective January 1, 1985.) "Local voters' pamphlet" means a pamphlet produced by a county or a first-class or code city that provides information about ballot measures or candidates, or both, and other information related to a primary, special election, or general election. [1984 c 106 § 2.]

Effective date—Severability—1984 c 106: See RCW 29.81A.900 and 29.81A.901.

Chapter 29.04
GENERAL PROVISIONS

Sections

29.04.035 Prohibition against campaign materials deceptively similar to voters' or candidates' pamphlets.

29.04.035 Prohibition against campaign materials deceptively similar to voters' or candidates' pamphlets. No person or entity may publish or distribute any campaign material that is deceptively similar in design or appearance to a voters' pamphlet or candidates' pamphlet or combination thereof, which pamphlet or combination was published by the secretary of state during the ten-year period prior to the publication or distribution by the person or entity. The secretary of state shall take reasonable measures to prevent or to stop violations of this section. Such measures may include, among others, petitioning the superior court for a temporary restraining order or other appropriate injunctive relief. In addition, the secretary may request the superior court to impose a civil fine on a violator of this section. The court is authorized to levy on and recover from each violator a civil fine not to exceed the greater of: (1) Two dollars for each copy of the deceptive material distributed, or (2) one thousand dollars. In addition, the violator shall be liable for the state's legal expenses and other costs resulting from the violation. Any funds recovered under this section shall be transmitted to the state treasurer for deposit in the general fund. [1984 c 41 § 1.]

Chapter 29.07
REGISTRATION OF VOTERS

Sections

29.07.010 County auditor as chief registrar of voters, custodian of records—Deputy registrars.
29.07.025 Voter registration in state offices.

29.07.010 County auditor as chief registrar of voters, custodian of records—Deputy registrars. (1) In all counties, the county auditor shall be the chief registrar of voters for every precinct within the county. He or she shall appoint a deputy registrar for each precinct or group of precincts and shall appoint city or town clerks as deputy registrars to assist in registering persons residing in cities, towns, and rural precincts within the county.

(2) In addition, the auditor shall appoint a deputy registrar for each common school. A deputy registrar in a common school shall be a school official or school employee. The auditor shall appoint a deputy registrar for each fire station that he or she finds is convenient to the public for registration purposes and is adequately staffed so that registration would not be a great inconvenience for the fire station personnel. A fire station appointee shall be a person employed at the station.

(3) The auditor shall also appoint deputy registrars to provide voter registration services for each state office providing voter registration under RCW 29.07.025.

(4) A deputy registrar shall be a registered voter. Except for city and town clerks, each registrar shall hold office at the pleasure of the county auditor.

(5) The county auditor shall be the custodian of the official registration records of each precinct within that county. [1984 c 211 § 3; 1980 c 48 § 1; 1971 ex.s. c 202 § 4; 1965 c 9 § 29.07.010. Prior: 1957 c 251 § 4; prior: 1939 c 15 § 1, part; 1933 c 1 § 3, part; RRS § 5114-3, part; prior: 1891 c 104 §§ 1, part, 2, part; RRS §§ 5116, part, 5117, part.]

Intent—1984 c 211: See note following RCW 29.07.025.
Rural precinct defined: RCW 29.01.150.

29.07.025 Voter registration in state offices. (1) The director or chief administrative officer of each state agency shall provide voter registration services for employees and the public within each office of that agency which is convenient to the public for registration purposes except where, or during such times as, the director or officer finds that there would be a great inconvenience to the public or to the operation of the agency due to inadequate staff time for this purpose.

(2) The secretary of state shall design and provide a standard notice informing the public of the availability of voter registration, which notice shall be posted in each state agency where such services are available. [1984 c 211 § 2.]

Intent—1984 c 211: "It is the intention of the legislature, in order to encourage the broadest possible participation in the electoral process by the citizens of the state of Washington, to make voter registration services available in state offices which have significant contact with the public." [1984 c 211 § 1.]

Chapter 29.18
PARTISAN PRIMARIES

Sections

29.18.025 Declarations of candidacy—Certain offices, when filed.
29.18.030 Declaration and affidavit of candidacy—Necessity—Form.
29.18.050 Declarations of candidacy—Fees and petitions.
29.18.053 Nominating petition—Form.
29.18.055 Nominating petitions—Rejection—Acceptance, canvass of signatures—Judicial review.
29.18.057 Nominating petitions—Penalties for improperly signing.
29.18.105 Declaration of candidacy—Withdrawal period.

29.18.025 Declarations of candidacy—Certain offices, when filed. Except where otherwise provided by state law, declarations of candidacy for the following offices shall be filed during regular business hours with the secretary of state or the county auditor no earlier than the last Monday in July and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which

an election to fill the vacancy is required in conjunction with the next state general election. [1984 c 142 § 2.]

Intent—1984 c 142: "It is the intention of the legislature that this act shall provide an equitable qualifying procedure for candidates who, at the time of filing, lack sufficient assets or income to pay the filing fees otherwise required of candidates for public office." [1984 c 142 § 1.] The term "this act" refers to the enactment of RCW 29.18.025, 29.18.053, 29.18.055, 29.18.057, and 29.18.105 and the amendment of RCW 29.18.030 and 29.18.050 by 1984 c 142.

29.18.030 Declaration and affidavit of candidacy—Necessity—Form. Each candidate who desires to have his or her name printed on the ballot at a primary, a special election, or a general election for any office other than president of the United States, vice president of the United States, or an office in a jurisdiction where ownership of property is a prerequisite to voting shall execute and file a declaration and affidavit of candidacy in substantially the following form:

DECLARATION AND AFFIDAVIT OF CANDIDACY

State of Washington }
County of } ss.

I,, hereby swear, or affirm:

(1) That I am a registered voter residing at (street and number, or rural route), (city or town), county, state of Washington (ZIP code)

(2) That, at the time of filing this declaration and affidavit, I am legally qualified to assume office if elected;

(3) That I hereby declare myself to be a candidate for nomination to the office of:

(4) For the following term of office: [] a full term or a full term and short term or [] an unexpired term;

(5) At the primary election to be held on the day of,

(6) That this office is: [] nonpartisan, or [] partisan and I request that my name be printed upon the ballots [] as a candidate of the party, or [] an independent candidate nominated under chapter 29.24 RCW; and

(7) That [] there is no filing fee because the office is without a fixed annual salary, or [] I accompany here-with the sum of dollars, the fee required by law for becoming a candidate, or [] I am without sufficient assets or income to pay the fee required by law and I have attached a nominating petition in lieu of this fee.

I further swear, or affirm, that I will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

(Please print name as name to appear upon ballot) (Signature of candidate)

Subscribed and sworn to before me this day of, 19....

(Signature of official)

(Official title)

[1984 c 142 § 3; 1965 ex.s. c 103 § 1; 1965 c 9 § 29.18-.030. Prior: 1959 c 250 § 1; 1947 c 234 § 1; 1933 c 95 § 1; 1907 c 209 § 4; Rem. Supp. 1947 § 5180.]

Intent—1984 c 142: See note following RCW 29.18.025.

Contests, grounds for: RCW 29.65.010.

Precinct committeeman—Declaration of candidacy: RCW 29.42-.040, 29.42.050.

Subversive activities

candidate must file affidavit respecting: RCW 9.81.100.

conviction of or plea of guilty to as disqualification for holding office: RCW 9.81.040.

Write-in voting, nominee to execute declaration of candidacy, pay fee: RCW 29.51.170.

29.18.050 Declarations of candidacy—Fees and petitions. A filing fee of one dollar shall accompany each declaration of candidacy for precinct committeeman; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with an annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary shall accompany the declaration of candidacy for any office with an annual salary of more than one thousand dollars per annum.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

(1) A federal or state-wide office, the fee shall be paid to the secretary of state for deposit in the state treasury.

(2) A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

(3) A county office or a legislative, judicial, or district office that includes territory from a single county, the fee shall be paid to the county auditor for deposit in the county treasury.

(4) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury. [1984 c 142 § 4; 1965 c 9 § 29.18.050. Prior: 1909 c 82 § 2; 1907 c 209 § 5; RRS § 5182.]

Intent—1984 c 142: See note following RCW 29.18.025.

Precinct committeeman, declaration of candidacy, fee: RCW 29.42-.040, 29.42.050.

29.18.053 Nominating petition—Form. The nominating petition authorized by RCW 29.18.050 shall be printed on sheets of uniform color and size, shall contain no more than twenty numbered lines, and shall be in substantially the following form:

WARNING

Any person who signs this petition with any other than his or her true name, or who knowingly (1) signs more than one petition for any single candidate, (2) signs the petition when he or she is not a legal voter, or (3) makes any false statement may be subject to fine, or imprisonment, or both.

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made), hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (insert name of office).

	Signature	Printed Name	Residence Address	City	County
1	-----	-----	-----	-----	-----
2	-----	-----	-----	-----	-----
3	-----	-----	-----	-----	-----
etc.					

[1984 c 142 § 5.]

Intent—1984 c 142: See note following RCW 29.18.025.

29.18.055 Nominating petitions—Rejection—Acceptance, canvass of signatures—Judicial review. Nominating petitions may be rejected for the following reasons:

- (1) The petition is not in the proper form;
- (2) The petition clearly bears insufficient signatures;
- (3) The petition is not accompanied by a declaration of candidacy;
- (4) The time within which the petition and the declaration of candidacy could have been filed has expired.

If the petition is accepted, the officer with whom it is filed shall canvass the signatures contained on it and shall reject the signatures of those persons who are not registered voters and the signatures of those persons who are not registered to vote within the jurisdiction of the office for which the nominating petition is filed. He or she shall additionally reject any signature that appears on the nominating petitions of two or more candidates for the same office and shall also reject, each time it appears, the name of any person who signs the same petition more than once.

If the officer with whom the petition is filed refuses to accept the petition or refuses to certify the petition as bearing sufficient valid signatures, the person filing the petition may appeal that action to the superior court. The application for judicial review shall take precedence over other cases and matters and shall be speedily heard and determined. [1984 c 142 § 6.]

Intent—1984 c 142: See note following RCW 29.18.025.

29.18.057 Nominating petitions—Penalties for improperly signing. The following apply to persons signing nominating petitions prescribed by RCW 29.18.053:

- (1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

- (2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence. [1984 c 142 § 8.]

Intent—1984 c 142: See note following RCW 29.18.025.

29.18.105 Declaration of candidacy—Withdrawal period. A candidate may withdraw his or her declaration of candidacy at any time before the Friday following the last day for candidates to file under RCW 29.18.025 by filing, with the officer with whom the declaration of candidacy was filed, a written, signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under RCW 29.18.032, 29.21.360, 29.21.370, or 29.68.080. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files. [1984 c 142 § 7.]

Intent—1984 c 142: See note following RCW 29.18.025.

Chapter 29.27

CERTIFICATES AND NOTICES

Sections

- 29.27.080 Notice of election—Certification of measures. (Effective January 1, 1985.)

29.27.080 Notice of election—Certification of measures. (Effective January 1, 1985.) (1) Except as provided in RCW 29.81A.060, notice for any state, county, district, or municipal election, whether special or general, shall be given by at least one publication not more than ten nor less than three days prior to the election by the county auditor or the officer conducting the election as the case may be, in one or more newspapers of general circulation within the county. Said legal notice shall contain the title of each office under the proper party designation, the names and addresses of all officers who have been nominated for an office to be voted upon at that election, together with the ballot titles of all measures, the hours during which the polls will be open, and that the election will be held in the regular polling places in each precinct, giving the address of each polling place: *Provided*, That the names of all candidates for nonpartisan offices shall be published separately with designation of the offices for which they are candidates but without party designation. This shall be the only notice required for a state, county, district, or municipal general or special election and shall supersede the provisions of any and all other statutes, whether general or special in nature, having different requirements for the giving of notice of any general or special elections.

- (2) All school district elections held on February 5, 1980, at which the number and proportion of persons required by law voted to authorize bonds or tax levies, are hereby validated regardless of any failure to publish

notice of such election. No action challenging the validity of any such election may be brought later than April 15, 1980, or thirty days from June 12, 1980, whichever is later. Notice of provisions of this subsection shall be published *within five days after the effective date of this section of this 1980 act in a newspaper of general circulation within each county where a school district election was held on February 5, 1980, and where notice of such election was not published as provided in subsection (1) of this section. [1984 c 106 § 12; 1980 c 35 § 8; 1965 c 9 § 29.27.080. Prior: 1955 c 153 § 1; 1951 c 101 § 7; 1949 c 161 § 11; Rem. Supp. 1949 § 5148-3a.]

***Reviser's note:** For phrase "within five days after the effective date of this section of this 1980 act" see notes relating to 1980 c 35 following RCW 28A.57.312.

Effective date—Severability—1984 c 106: See RCW 29.81A.900 and 29.81A.901.

Emergency—Severability—1980 c 35: See notes following RCW 28A.57.312.

Publication of diagrams: RCW 29.33.180.

Chapter 29.30 BALLOTS

Sections

29.30.111 Ballot proposition for certain regular property tax levies—Form.

29.30.111 Ballot proposition for certain regular property tax levies—Form. The ballot proposition authorizing a taxing district to impose the regular property tax levies authorized in RCW 36.69.145, 67.38.130, or 84.52.069 shall contain in substance the following:

"Shall the (insert the name of the taxing district) be authorized to impose regular property tax levies of (insert the maximum rate) or less per thousand dollars of assessed valuation for each of (insert the maximum number of years allowable) consecutive years?

Yes.....

No

Each voter shall indicate either "Yes" or "No" on his or her ballot in accordance with the procedures established under this title. [1984 c 131 § 3.]

Purpose—1984 c 131 §§ 3-9: "The purpose of sections 3 through 6 of this act is to clarify requirements necessary for voters to authorize certain local governments to impose regular property tax levies for a series of years. Sections 3 through 9 of this act only clarify the existing law to avoid credence being given to an erroneous opinion that has been rendered by the attorney general. As cogently expressed in Attorney General Opinion, Number 14, Addendum, opinions rendered by the attorney general are advisory only and are merely a "prediction of the outcome if the matter were to be litigated." Nevertheless, confusion has arisen from this erroneous opinion." [1984 c 131 § 2.] "Sections 3 through 9 of this act" consist of the enactment of RCW 29.30.111 and 36.68.525 and the 1984 c 131 amendments to RCW 67.38.130, 84.52.069, 36.69.145, 36.68.480, and 36.68.520.

Chapter 29.36 ABSENTEE VOTING

Sections

29.36.010 When permissible—Application.
29.36.035 Qualifications for delivery of ballot.

29.36.010 When permissible—Application. Any duly registered voter may vote an absentee ballot for any primary or election in the manner provided in this chapter.

A voter desiring to cast an absentee ballot must apply in writing to his county auditor no earlier than forty-five days nor later than the day prior to any election or primary: *Provided*, That an application honored for a primary ballot shall also be honored as an application for a ballot for the following election if the voter so indicates on his application: *Provided further*, That a voter admitted to a hospital no earlier than five days before a primary or election and confined to the hospital on election day may apply by messenger for an absentee ballot on the day of the primary or election if a signed statement from the hospital administrator, or designee, verifying the voter's date of admission and status as a patient in the hospital on the day of the primary or election is attached to the absentee ballot application.

Such applications must contain the voter's signature and may be made in person or by mail or messenger: *Provided*, That no application for an absentee ballot shall be approved unless the voter's signature upon the application compares favorably with the voter's signature upon his permanent registration record. [1984 c 27 § 1; 1977 ex.s. c 361 § 76; 1974 ex.s. c 35 § 1; 1971 ex.s. c 202 § 37; 1965 c 9 § 29.36.010. Prior: 1963 ex.s. c 23 § 1; 1955 c 167 § 2; prior: (i) 1950 ex.s. c 8 § 1; 1943 c 72 § 1; 1933 ex.s. c 41 § 1; 1923 c 58 § 1; 1921 c 143 § 1; 1917 c 159 § 1; 1915 c 189 § 1; Rem. Supp. 1943 § 5280. (ii) 1933 ex.s. c 41 § 2, part; 1923 c 58 § 2, part; 1921 c 143 § 2, part; 1917 c 159 § 2, part; 1915 c 189 § 2, part; RRS § 5281, part.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

29.36.035 Qualifications for delivery of ballot. The delivery of an absentee ballot for any primary or election shall be subject to the following qualifications:

(1) Only the voter, himself, or a member of his family may pick up an absentee ballot at the office of the issuing officer unless the voter is hospitalized on election day and applies by messenger in accordance with RCW 29.36.010 for an absentee ballot on the day of the primary or election. In this latter case, the messenger may pick up the hospitalized voter's absentee ballot.

(2) Except as noted in subsection (1) above, the issuing officer shall mail the absentee ballot directly to each applicant.

(3) No absentee ballot shall be issued on the day of the primary or election concerned, except as provided by RCW 29.36.010, for a voter confined to a hospital on the day of a primary or election. [1984 c 27 § 2; 1965 c 9 § 29.36.035. Prior: 1963 ex.s. c 23 § 4.]

Chapter 29.39
ABSENTEE SERVICE VOTERS

Sections

29.39.210 Special absentee ballots.

29.39.210 Special absentee ballots. (1) As provided in this section, county auditors shall provide special absentee ballots to be used for state primary or state general elections. A special absentee ballot shall only be provided to a voter who completes an application stating that:

(a) The voter believes that she or he will be residing or stationed or working outside the continental United States; and

(b) The voter believes that she or he will be unable to vote and return a regular absentee ballot by normal mail delivery within the period provided for regular absentee ballots.

The application for a special absentee ballot may not be filed earlier than ninety days prior to the applicable state primary or general election. The special absentee ballot shall list the offices and measures, if known, scheduled to appear on the state primary or general election ballot. The voter may use the special absentee ballot to write in the name of any eligible candidate for each office and vote on any measure.

(2) With any special absentee ballot issued under this section, the county auditor shall include a listing of any candidates who have filed before the time of the application for offices that will appear on the ballot at that primary or election and a list of any issues that have been referred to the ballot before the time of the application.

(3) Write-in votes on special absentee ballots shall be counted in the same manner provided by law for the counting of other write-in votes. The county auditor shall process and canvass the special absentee ballots provided under this section in the same manner as other absentee ballots under chapters 29.36, 29.39, and 29.62 RCW.

(4) A voter who requests a special absentee ballot under this section may also make application for an absentee ballot under RCW 29.36.010 or a service absentee ballot under RCW 29.39.100. If the regular absentee or service absentee ballot is properly voted and returned, the special absentee ballot shall be deemed void and the county auditor shall reject it in whole when special absentee ballots are canvassed. [1984 c 109 § 1.]

Chapter 29.51
POLLING PLACE REGULATIONS DURING VOTING HOURS

Sections

29.51.020 Acts prohibited in vicinity of polling place—Prohibited practices as to ballots—Penalty.

29.51.020 Acts prohibited in vicinity of polling place—Prohibited practices as to ballots—Penalty.

[1984 RCW Supp—page 278]

(1) On the day of any primary, general or special election, no person may, within a polling place, or in any public area within three hundred feet of any entrance to such polling place:

(a) Do any electioneering;

(b) Circulate cards or handbills of any kind;

(c) Solicit signatures to any kind of petition;

(d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place; or

(e) Conduct any exit poll or public opinion poll with voters.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

(3) No person may:

(a) Except as provided in RCW 29.34.157, remove any ballot from the polling place before the closing of the polls; or

(b) Solicit any voter to show his or her ballot.

(4) No person other than an inspector or judge of election may receive from any voter a voted ballot or deliver a blank ballot to such elector.

(5) Any violation of this section is a misdemeanor under RCW 9A.20.010, and shall be punished under RCW 9A.20.020(3), and the person convicted may be ordered to pay the costs of prosecution. [1984 c 35 § 1; 1983 1st ex.s. c 33 § 1; 1965 c 9 § 29.51.020. Prior: (i) 1947 c 35 § 1, part; 1889 p 412 § 33, part; Rem. Supp. 1947 § 5298, part. (ii) 1895 c 156 § 7, part; 1889 p 409 § 22, part; Code 1881 § 3079, part; 1865 p 34 § 4, part; RRS § 5279, part.]

Chapter 29.70

LOCAL GOVERNMENT REDISTRICTING

(Formerly: Voting boundary commission act of 1982)

Sections

29.70.100 Redistricting by counties, municipal corporations, and special purpose districts—Census information for—Plan, when prepared, criteria for, hearing on, request for review of, effective date, remand—Sanctions when review request frivolous.

29.70.100 Redistricting by counties, municipal corporations, and special purpose districts—Census information for—Plan, when prepared, criteria for, hearing on, request for review of, effective date, remand—Sanctions when review request frivolous. (1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local

area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within forty-five days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district. [1984 c 13 § 4; 1983 c 16 § 15; 1982 c 2 § 27.]

Severability—1984 c 13: See RCW 44.05.902.

Contingent effective date—**Severability**—1983 c 16: See RCW 44.05.900 and 44.05.901.

Chapter 29.80

CANDIDATES' PAMPHLET

Sections

29.80.010	Contents—Publication.
29.80.020	Statement and photograph to be filed by nominee, date.
29.80.040	Publication, date—Dimensions—Consolidation with voters' pamphlet.
29.80.090	Additional information.

29.80.010 Contents—Publication. As soon as possible before each state general election at which federal or state officials are to be elected, the secretary of state shall publish and mail to each individual place of residence of the state a candidates' pamphlet containing photographs and campaign statements of eligible nominees who desire to participate therein, together with a campaign mailing address and telephone number submitted by the nominee at the nominee's option, and in even-numbered years containing a description of the office of precinct committeeman and its duties, in order that voters will understand that the office is a state office and will be found on the ballot of the forthcoming general election. In odd-numbered years no candidates' pamphlet may be published unless an election is to be held to fill a vacancy in one or more of the following state-wide elective offices: United States senator, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner, or justice of the supreme court. [1984 c 54 § 1; 1977 ex.s. c 361 § 106; 1975-'76 2nd ex.s. c 4 § 2; 1973 c 4 § 8; 1965 c 9 § 29.80.010. Prior: 1959 c 329 § 19.]

Severability—1984 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." [1984 c 54 § 8.]

Effective date—**Severability**—1977 ex.s. c 361: See notes following RCW 29.01.006.

29.80.020 Statement and photograph to be filed by nominee, date. At a time to be determined by the secretary of state, but in any event not later than forty-five days before the applicable state general election, each nominee for the office of United States senator, United States representative, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner, state senator, state representative, justice of the supreme court, judge of the court of appeals, or judge of the superior court may file with the secretary of state a written statement advocating his or her candidacy accompanied by the campaign mailing address and telephone number submitted by the nominee at the nominee's option, and a photograph not more than five years old and of a size and quality that the secretary of state determines to be suitable for reproduction in the voters' pamphlet. The maximum number of words for the statements shall be determined according to the offices sought as follows: State representative, one hundred words; state senator,

judge of the superior court, judge of the court of appeals, justice of the supreme court, and all state offices voted upon throughout the state, except that of governor, two hundred words; United States senator, United States representative, and governor, three hundred words. No such statement or photograph may be printed in the candidates' pamphlet for any person who is the sole nominee for any nonpartisan or judicial office. [1984 c 54 § 2; 1971 ex.s. c 145 § 1; 1971 c 81 § 78; 1965 c 9 § 29.80.020. Prior: 1959 c 329 § 20.]

Severability—1984 c 54: See note following RCW 29.80.010.

Severability—1971 ex.s. c 145: "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 145 § 8.]

29.80.040 Publication, date—Dimensions—Consolidation with voters' pamphlet. The nominees' statements, photographs, and the addresses and telephone numbers submitted by them as set forth in RCW 29.80.010 and 29.80.020 shall be published by the secretary of state as a candidates' pamphlet, the printing of which shall be completed as soon as possible before the state general election concerned. The overall dimensions of the pamphlet shall be determined by the secretary of state as those which in the secretary's judgment best serve the voters, and whenever possible the candidates' pamphlet shall be combined with the voters' pamphlet as a single publication. [1984 c 54 § 3; 1971 ex.s. c 145 § 2; 1965 c 9 § 29.80.040. Prior: 1959 c 329 § 22.]

Severability—1984 c 54: See note following RCW 29.80.010.

Severability—1971 ex.s. c 145: See note following RCW 29.80.020.

Voters' pamphlet: Chapter 29.81 RCW.

29.80.090 Additional information. In addition to other contents included in the candidates' pamphlet, the secretary of state shall prepare and include a section containing (1) a brief explanation of how voters may participate in the election campaign process; (2) the name, address, and telephone number of each political party that has one or more nominees listed in the candidates' pamphlet, but this information shall be included in the candidates' pamphlet only if and as filed with the secretary of state by the state committee of a major political party or the presiding officer of the convention of a minor political party; (3) the address and telephone number of the public disclosure commission established under RCW 42.17.350; (4) a summary of the disclosure requirements that apply when contributions are made to candidates and political committees; and (5) an explanation of the federal income tax credits and deductions that are available to persons who make such contributions. Whenever the candidates' pamphlet is combined with the voters' pamphlet, the section shall be placed at or near the beginning of the combined publication. [1984 c 54 § 7.]

Severability—1984 c 54: See note following RCW 29.80.010.

Chapter 29.81 VOTERS' PAMPHLET

Sections

29.81.010	Contents, how organized.
29.81.011	Telephone number, date submitted.
29.81.012	Application forms for absentee ballots to be included.

29.81.010 Contents, how organized. The voters' pamphlet shall contain as to each state measure to be voted upon, the following in the order set forth in this section:

(1) Upon the top portion of the first two opposing pages relating to the measure and not exceeding one-third of the total printing area shall appear:

(a) The legal identification of the measure by serial designation and number;

(b) The official ballot title of the measure;

(c) A brief statement explaining the law as it presently exists;

(d) A brief statement explaining the effect of the proposed measure should it be approved into law;

(e) The total number of votes cast for and against the measure in both the state senate and house of representatives if the measure has been passed by the legislature;

(f) A heavy double ruled line across both pages to clearly set apart the above items from the remaining text.

(2) Upon the lower portion of the left page of the two facing pages shall appear an argument advocating the voters' approval of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(3) Upon the lower portion of the right hand page of the two facing pages shall appear an argument advocating the voters' rejection of the measure together with any rebuttal statement of the opposing argument as provided in RCW 29.81.030, 29.81.040, or 29.81.050.

(4) Following each argument or rebuttal statement each member of the committee advocating for or against a measure shall be listed by name and address to the end that the public shall be fully apprised of the advocate's identity. Also, following each argument or rebuttal statement, the secretary of state shall list, at the option of the committee that submitted the argument or statement, a telephone number that citizens may call in order to obtain information on the ballot measure.

(5) At the conclusion of the pamphlet the full text of each of the measures shall appear. The text of the proposed constitutional amendments shall be set forth in the form provided for in RCW 29.81.080. [1984 c 54 § 4; 1973 1st ex.s. c 143 § 1; 1965 c 9 § 29.81.010. Prior: 1959 c 329 § 1. Formerly RCW 29.79.3502.]

Severability—1984 c 54: See note following RCW 29.80.010.

Publicity of law, parts of law, and amendments to Constitution referred to people: State Constitution Art. 2 § 1(e) (Amendment 36).

29.81.011 Telephone number, date submitted. Any telephone number to be printed in a voters' pamphlet at the option of a committee, as described in RCW 29.81.010(4), must be submitted by the fifteenth day of

August preceding the election for which the pamphlet is published. [1984 c 54 § 5.]

Severability—1984 c 54: See note following RCW 29.80.010.

29.81.012 Application forms for absentee ballots to be included. In addition to any other contents required by this chapter, every voters' pamphlet published shall contain an application form for a state general election absentee ballot. Upon receipt of the form from a qualified applicant for an absentee ballot, the appropriate election officer shall send the applicant an absentee ballot. [1984 c 54 § 6; 1969 ex.s. c 72 § 1.]

Severability—1984 c 54: See note following RCW 29.80.010.

Chapter 29.81A

LOCAL VOTERS' PAMPHLETS

(Effective January 1, 1985)

Sections

29.81A.010	Authorization—Contents—Format.
29.81A.020	Notice of production—Determination of local governments to participate.
29.81A.030	Administrative rules.
29.81A.040	Contents.
29.81A.050	Candidates, when included.
29.81A.060	Mailing.
29.81A.070	Cost.
29.81A.080	Arguments advocating approval and disapproval—Preparation by committees.
29.81A.900	Effective date—1984 c 106.
29.81A.901	Severability—1984 c 106.

29.81A.010 Authorization—Contents—Format. At least ninety days before any primary or general election, or at least forty days before any special election held under RCW 29.13.010 or 29.13.020, the legislative authority of any county or first-class or code city may adopt an ordinance authorizing the publication and distribution of a local voters' pamphlet. The pamphlet shall provide information on all measures within that jurisdiction and may, if specified in the ordinance, include information on candidates within that jurisdiction. If both a county and a first-class or code city within that county authorize a local voters' pamphlet for the same election, the pamphlet shall be produced jointly by the county and the first-class or code city. If no agreement can be reached between the county and first-class or code city, the county and first-class or code city may each produce a pamphlet. Any ordinance adopted authorizing a local voters' pamphlet may be for a specific primary, special election, or general election or for any future primaries or elections. The format of any local voters' pamphlet shall, whenever applicable, comply with the provisions of chapters 29.80 and 29.81 RCW regarding the publication of the state candidates' and voters' pamphlets. [1984 c 106 § 3.]

29.81A.020 Notice of production—Determination of local governments to participate. (1) Within five days of the adoption by the county legislative authority of an ordinance authorizing the publication and distribution of a local voters' pamphlet, the county auditor shall notify

each city, town, or special taxing district located wholly within that county that a pamphlet will be produced. If the ordinance applies to future primaries or elections, the ordinance shall provide for such a notification prior to those primaries or elections. If a city, town, or district is located within more than one county, the respective county auditors may enter into an interlocal agreement to permit the distribution of each county's local voters' pamphlet into those parts of the city, town, or district located outside of that county.

(2) If a first-class or code city authorizes the production and distribution of a local voters' pamphlet, the city clerk of that city shall notify any special taxing district located wholly within that city that a pamphlet will be produced. Notification shall be provided in the manner required or provided for in subsection (1) of this section.

(3) Upon receipt of the notification, the legislative authority of each city, town, or district shall determine whether it will include any information from that jurisdiction in the local voters' pamphlet for a specific primary, special election, or general election or for any future primaries or elections. If it chooses to participate, it shall include information on all measures from that jurisdiction, and may include information on candidates. [1984 c 106 § 4.]

29.81A.030 Administrative rules. The county auditor or, if applicable, the city clerk of a first-class or code city shall, in consultation with the participating jurisdictions, adopt and publish administrative rules necessary to facilitate the provisions of any ordinance authorizing production of a local voters' pamphlet. Any amendment to such a rule shall also be adopted and published. Copies of the rules shall identify the date they were adopted or last amended and shall be made available to any person upon request. One copy of the rules adopted by a county auditor and one copy of any amended rules shall be submitted to the county legislative authority. One copy of the rules adopted by a city clerk and one copy of any amended rules shall be submitted to the city legislative authority. These rules shall include but not be limited to the following:

(1) Deadlines for decisions by cities, towns, or special taxing districts on being included in the pamphlet;

(2) Limits on the length and deadlines for submission of arguments for and against each measure;

(3) The basis for rejection of any explanatory or candidates' statement or argument deemed to be libelous or otherwise inappropriate. Any statements by a candidate shall be limited to those about the candidate himself or herself;

(4) Limits on the length and deadlines for submission of candidates' statements;

(5) An appeal process in the case of the rejection of any statement or argument. [1984 c 106 § 5.]

29.81A.040 Contents. The local voters' pamphlet shall include but not be limited to the following:

(1) Appearing on the cover, the words "official local voters' pamphlet," the name of the jurisdiction producing the pamphlet, the jurisdictions that have measures or

candidates in the pamphlet, and the date of the election or primary;

(2) Information on how a person may register to vote and obtain an absentee ballot;

(3) The text of each measure accompanied by an explanatory statement prepared by the prosecuting attorney for any county measure or by the attorney for the jurisdiction submitting the measure if other than a county measure. All explanatory statements for city, town, or district measures not approved by the attorney for the jurisdiction submitting the measure shall be reviewed and approved by the county prosecuting attorney or city attorney, when applicable, before inclusion in the pamphlet;

(4) The arguments for and against each measure submitted by committees selected pursuant to RCW 29.81A.080. [1984 c 106 § 6.]

29.81A.050 Candidates, when included. If the legislative authority of a county or first-class or code city provides for the inclusion of candidates in the local voters' pamphlet, the pamphlet shall include the statements from candidates and may also include those candidates' photographs. [1984 c 106 § 7.]

29.81A.060 Mailing. As soon as practicable before the primary, special election, or general election, the county auditor, or if applicable, the city clerk of a first-class or code city, as appropriate, shall mail the local voters' pamphlet to every residence in each jurisdiction that has included information in the pamphlet. The county auditor or city clerk, as appropriate, may choose to mail the pamphlet to each registered voter in each jurisdiction that has included information in the pamphlet, if in his or her judgment, a more economical and effective distribution of the pamphlet would result. If the county or city chooses to mail the pamphlet to each residence, no notice of election otherwise required by RCW 29.27.080 need be published. [1984 c 106 § 8.]

29.81A.070 Cost. The cost of a local voters' pamphlet shall be considered an election cost to those local jurisdictions included in the pamphlet and shall be prorated in the manner provided in RCW 29.13.045. [1984 c 106 § 9.]

29.81A.080 Arguments advocating approval and disapproval—Preparation by committees. For each measure from a jurisdiction that is included in a local voters' pamphlet, the legislative authority of that jurisdiction shall formally appoint a committee to prepare arguments advocating voters' approval of the measure and shall formally appoint a committee to prepare arguments advocating voters' rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. [1984 c 106 § 10.]

29.81A.900 Effective date—1984 c 106. This act shall take effect on January 1, 1985. [1984 c 106 § 14.]

29.81A.901 Severability—1984 c 106. 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 106 § 13.]

Chapter 29.82

THE RECALL

Sections

29.82.010	Initiating recall proceedings—Statement—Contents—Verification—Definitions.
29.82.015	Petition—Where filed.
29.82.020	Repealed.
29.82.021	Ballot synopsis.
29.82.023	Determination by superior court—Correction of ballot synopsis.
29.82.025	Filing supporting signatures—Time limitations.
29.82.026	Repealed.
29.82.030	Petition—Form.
29.82.070	Repealed.
29.82.090	Verification and canvass of signatures—Procedure—Statistical sampling.
29.82.100	Fixing date for recall election—Notice.
29.82.105	Response to petition charges.
29.82.160	Enforcement provisions—Mandamus—Appeals.
29.82.170	Violations by signers—Officers.
29.82.220	Violations—Corrupt practices.

29.82.010 Initiating recall proceedings—Statement—Contents—Verification—Definitions.

Whenever any legal voter of the state or of any political subdivision thereof, either individually or on behalf of an organization, desires to demand the recall and discharge of any elective public officer of the state or of such political subdivision, as the case may be, under the provisions of sections 33 and 34 of Article 1 of the Constitution, he or they shall prepare a typewritten charge, reciting that such officer, naming him or her and giving the title of his office, has committed an act or acts of malfeasance, or an act or acts of misfeasance while in office, or has violated his oath of office, or has been guilty of any two or more of the acts specified in the Constitution as grounds for recall. The charge shall state the act or acts complained of in concise language, give a detailed description including the approximate date, location, and nature of each act complained of, be signed by the person or persons making the charge, give their respective post office addresses, and be verified under oath that he or they believe the charge or charges to be true and have knowledge of the alleged facts upon which the stated grounds for recall are based.

For the purposes of this chapter:

(1) "Misfeasance" or "malfeasance" in office means any wrongful conduct that affects, interrupts, or interferes with the performance of official duty;

(a) Additionally, "misfeasance" in office means the performance of a duty in an improper manner; and

(b) Additionally, "malfeasance" in office means the commission of an unlawful act;

(2) "Violation of the oath of office" means the wilful neglect or failure by an elective public officer to perform faithfully a duty imposed by law. [1984 c 170 § 1; 1975-'76 2nd ex.s. c 47 § 1; 1965 c 9 § 29.82.010. Prior: 1913 c 146 § 1; RRS § 5350. Former part of section: 1913 c 146 § 2; RRS § 5351, now codified in RCW 29.82.015.]

Severability—1975-'76 2nd ex.s. c 47: "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 47 § 3.]

29.82.015 Petition—Where filed. Any person making a charge shall file it with the elections officer whose duty it is to receive and file a declaration of candidacy for the office concerning the incumbent of which the recall is to be demanded. The officer with whom the charge is filed shall promptly (1) serve a copy of the charge upon the officer whose recall is demanded, and (2) certify and transmit the charge to the preparer of the ballot synopsis provided in RCW 29.82.021. The manner of service shall be the same as for the commencement of a civil action in superior court. [1984 c 170 § 2; 1975-'76 2nd ex.s. c 47 § 2; 1965 c 9 § 29.82.015. Prior: 1913 c 146 § 2; RRS § 5351. Formerly RCW 29.82.010, part.]

Severability—1975-'76 2nd ex.s. c 47: See note following RCW 29.82.010.

29.82.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.82.021 Ballot synopsis. (1) Within fifteen days after receiving a charge, the officer specified below shall formulate a ballot synopsis of the charge of not more than two hundred words.

(a) If the recall is demanded of an elected public officer whose political jurisdiction encompasses an area in more than one county, the attorney general shall be the preparer, except if the recall is demanded of the attorney general, the chief justice of the supreme court shall be the preparer.

(b) If the recall is demanded of an elected public officer whose political jurisdiction lies wholly in one county, the prosecuting attorney shall be the preparer, except that if the prosecuting attorney is the officer whose recall is demanded, the attorney general shall be the preparer.

(2) The synopsis shall set forth the name of the person charged, the title of his office, and a concise statement of the elements of the charge. Upon completion of the ballot synopsis, the preparer shall certify and transmit the exact language of the ballot synopsis to the persons filing the charge and the officer subject to recall. The preparer shall additionally certify and transmit the charges and the ballot synopsis to the superior court of the county in which the officer subject to recall resides and shall petition the superior court to approve the synopsis and to determine the sufficiency of the charges. [1984 c 170 § 3.]

29.82.023 Determination by superior court—Correction of ballot synopsis. Within fifteen days after receiving the petition, the superior court shall have conducted a hearing on and shall have determined, without cost to any party, (1) whether or not the acts stated in the charge satisfy the criteria for which a recall petition may be filed, and (2) the adequacy of the ballot synopsis. The clerk of the superior court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the sufficiency of the charges and the adequacy of the ballot synopsis. The court shall not consider the truth of the charges, but only their sufficiency. An appeal of a sufficiency decision shall be filed in the supreme court as specified by RCW 29.82.160. The superior court shall correct any ballot synopsis it deems inadequate. Any decision regarding the ballot synopsis by the superior court is final. The court shall certify and transmit the ballot synopsis to the officer subject to recall, the person demanding the recall, and either the secretary of state or the county auditor, as appropriate. [1984 c 170 § 4.]

29.82.025 Filing supporting signatures—Time limitations. (1) The sponsors of a recall demanded of any public officer shall stop circulation and file all petitions with the appropriate elections officer not less than six months before the next general election in which the officer whose recall is demanded is subject to reelection.

(2) The sponsors of a recall demanded of an officer elected to a state-wide position shall have a maximum of two hundred seventy days and the sponsors of a recall demanded of any other officer shall have a maximum of one hundred eighty days in which to obtain and file supporting signatures after the issuance of a ballot synopsis by the superior court. If the decision of the superior court regarding the sufficiency of the charges is not appealed, the one hundred eighty or two hundred seventy day period for the circulation of signatures begins on the sixteenth day following the decision of the superior court. If the decision of the superior court regarding the sufficiency of the charges is appealed, the one hundred eighty or two hundred seventy day period for the circulation of signatures begins on the day following the issuance of the decision by the supreme court. [1984 c 170 § 5; 1971 ex.s. c 205 § 2.]

Severability—1971 ex.s. c 205: "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 205 § 6.]

29.82.026 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.82.030 Petition—Form. Recall petitions shall be printed on single sheets of paper of good writing quality (including but not limited to newsprint) not less than eleven inches in width and not less than fourteen inches in length. No petition may be circulated or signed prior to the first day of the one hundred eighty or two

hundred seventy day period established by RCW 29.82-.025 for that recall petition. Such petitions shall be substantially in the following form:

WARNING

Every person who signs this petition with any other than his true name, or who knowingly (1) signs more than one of these petitions, (2) signs this petition when he is not a legal voter, or (3) makes herein any false statement, may be fined, or imprisoned, or both.

Petition for the recall of (here insert the name of the office and of the person whose recall is petitioned for) to the Honorable (here insert the name and title of the officer with whom the charge is filed).

We, the undersigned citizens and legal voters of (the state of Washington or the political subdivision in which the recall is to be held), respectfully direct that a special election be called to determine whether or not (here insert the name of the person charged and the office which he holds) be recalled and discharged from his office, for and on account of (his having committed the act or acts of malfeasance or misfeasance while in office, or having violated his oath of office, as the case may be), in the following particulars: (here insert the synopsis of the charge); and each of us for himself says: I have personally signed this petition; I am a legal voter of the State of Washington in the precinct and city (or town) and county written after my name, and my residence address is correctly stated, and to my knowledge, have signed this petition only once.

Petitioner's signature	Print name for positive identification	Residence address, street and number, if any	City or Town	County
(Here follow 20 numbered lines divided into columns as below.)				
1	-----	-----	-----	-----
2	-----	-----	-----	-----
3	-----	-----	-----	-----
etc.				

[1984 c 170 § 6; 1971 ex.s. c 205 § 4; 1965 c 9 § 29.82-.030. Prior: 1913 c 146 § 4; RRS § 5353.]

Severability—1971 ex.s. c 205: See note following RCW 29.82.025.

29.82.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.82.090 Verification and canvass of signatures—Procedure—Statistical sampling. (1) Upon the filing of a recall petition, the elections officer shall proceed to verify and canvass the names of legal voters on the petition.

(2) The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed recall so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court. The elections officer may limit the number

of observers to not fewer than two on each side, if in his or her opinion a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. If the elections officer finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature.

(3) Where the recall of a state-wide elected official is sought, the secretary of state may use any statistical sampling techniques for verification and canvassing which have been adopted by rule for canvassing initiative petitions under RCW 29.79.200. No petition will be rejected on the basis of any statistical method employed. No petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains less than the number of signatures of legal voters required by Article I, section 33 (Amendment 8) of the state Constitution. [1984 c 170 § 7; 1977 ex.s. c 361 § 107; 1965 c 9 § 29.82.090. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

29.82.100 Fixing date for recall election—Notice.

If, at the conclusion of the verification and canvass, it is found that a petition for recall bears the required number of signatures of certified legal voters, the officer with whom the petition is filed shall promptly certify the petitions as sufficient and fix a date for the special election to determine whether or not the officer charged shall be recalled and discharged from office. The special election shall be held not less than forty-five nor more than sixty days from the certification and, whenever possible, on one of the dates provided in RCW 29.13.020, but no recall election may be held between the date of the primary and the date of the general election in any calendar year. Notice shall be given in the manner as required by law for special elections in the state or in the political subdivision, as the case may be. [1984 c 170 § 8; 1977 ex.s. c 361 § 108; 1971 ex.s. c 205 § 5; 1965 c 9 § 29.82.100. Prior: 1913 c 146 § 9, part; RRS § 5358, part.]

Effective date—Severability—1977 ex.s. c 361: See notes following RCW 29.01.006.

Severability—1971 ex.s. c 205: See note following RCW 29.82.025.

29.82.105 Response to petition charges. When a date for a special recall election is set the certifying officer shall serve a notice of the date of the election to the officer whose recall is demanded and the person demanding recall. The manner of service shall be the same as for the commencement of a civil action in superior court. After having been served a notice of the date of the election and the ballot synopsis, the officer whose recall is demanded may submit to the certifying officer a response, not to exceed two hundred fifty words in length, to the charge contained in the ballot synopsis. Such response shall be submitted by the seventh consecutive day after service of the notice. The certifying officer shall

promptly send a copy of the response to the person who filed the petition. [1984 c 170 § 9; 1980 c 42 § 1.]

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

The supreme court has like original jurisdiction in relation to state officers and revisory jurisdiction over the decisions of the superior courts. Any proceeding to compel or prevent the performance of any such act shall be begun within ten days from the time the cause of complaint arises, and shall be considered an emergency matter of public concern and take precedence over other cases, and be speedily heard and determined. Any proceeding to review a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be considered an emergency matter of public concern by the supreme court, and heard and determined within thirty days after the decision of the superior court. [1984 c 170 § 10; 1965 c 9 § 29.82.160. Prior: 1913 c 146 § 14; RRS § 5363.]

Rules of court: Writ procedure superseded by RAP 2.1(b), 16.2, 18.22.

29.82.170 Violations by signers—Officers. Every person who signs a recall petition with any other than his true name is guilty of a felony. Every person who knowingly (1) signs more than one petition for the same recall, (2) signs a recall petition when he is not a legal voter, or (3) makes a false statement as to his residence on any recall petition is guilty of a gross misdemeanor. Every registration officer who makes any false report or certificate on any recall petition is guilty of a gross misdemeanor. [1984 c 170 § 11; 1965 c 9 § 29.82.170. Prior: 1913 c 146 § 15; RRS § 5364. Formerly codified also in RCW 29.82.180, 29.82.190 and 29.82.200.]

29.82.220 Violations—Corrupt practices. Every person is guilty of a gross misdemeanor, who:

(1) For any consideration, compensation, gratuity, reward, or thing of value or promise thereof, signs or declines to sign any recall petition; or

(2) Advertises in any newspaper, magazine or other periodical publication, or in any book, pamphlet, circular, or letter, or by means of any sign, signboard, bill, poster, handbill, or card, or in any manner whatsoever, that he will either for or without compensation or consideration circulate, solicit, procure, or obtain signatures upon, or influence or induce or attempt to influence or induce persons to sign or not to sign any recall petition or vote for or against any recall; or

(3) For pay or any consideration, compensation, gratuity, reward, or thing of value or promise thereof, circulates, or solicits, procures, or obtains or attempts to procure or obtain signatures upon any recall petition; or

(4) Pays or offers or promises to pay, or gives or offers or promises to give any consideration, compensation, gratuity, reward, or thing of value to any person to induce him to sign or not to sign, or to circulate or solicit, procure, or attempt to procure or obtain signatures upon any recall petition, or to vote for or against any recall; or

(5) By any other corrupt means or practice or by threats or intimidation interferes with or attempts to interfere with the right of any legal voter to sign or not to sign any recall petition or to vote for or against any recall; or

(6) Receives, accepts, handles, distributes, pays out, or gives away, directly or indirectly, any money, consideration, compensation, gratuity, reward, or thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose stockholders are nonresidents of the state of Washington, for any service, work, or assistance of any kind done or rendered for the purpose of aiding in procuring signatures upon any recall petition or the adoption or rejection of any recall. [1984 c 170 § 12; 1965 c 9 § 29.82.220. Prior: 1953 c 113 § 2; prior: 1913 c 146 § 16, part; RRS § 5365, part.]

Chapter 29.85

CRIMES AND PENALTIES

Sections

29.85.270	Repealed.
29.85.275	Political advertising, removing or defacing.
29.85.280	Repealed.

29.85.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

29.85.275 Political advertising, removing or defacing. A person who removes or defaces lawfully placed political advertising including yard signs or billboards without authorization is guilty of a misdemeanor under chapter 9A.20 RCW. The defacement or removal of each item constitutes a separate violation. [1984 c 216 § 5.]

Political advertising

*generally: RCW 42.17.510 through 42.17.540
rates for candidates: RCW 65.16.095.*

29.85.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 30

BANKS AND TRUST COMPANIES

Chapters

30.04	General provisions.
30.24	Investment of trust funds.
30.28	Common trust funds.
30.30	Trustees' accounting act.
30.99	Washington trust act.

Chapter 30.04
GENERAL PROVISIONS

Sections

30.04.310 Penalty—General. (Effective January 1, 1985.)

30.04.310 Penalty—General. (Effective January 1, 1985.) Every bank or trust company which violates or fails to comply with any provision of chapters 30.04 through 30.23 RCW, inclusive, and chapters 30.44 and 11.100 RCW of this title or any lawful direction or requirement of the supervisor shall be subject, in addition to any penalty now provided, to a penalty of not more than one hundred dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense. [1984 c 149 § 173; 1955 c 33 § 30.04.310. Prior: 1923 c 115 § 13; RRS § 3286a.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Chapter 30.24
INVESTMENT OF TRUST FUNDS

Sections

30.24.010 Recodified as RCW 11.100.010. (Effective January 1, 1985.)
 30.24.015 Recodified as RCW 11.100.015. (Effective January 1, 1985.)
 30.24.020 Recodified as RCW 11.100.020. (Effective January 1, 1985.)
 30.24.030 Recodified as RCW 11.100.030. (Effective January 1, 1985.)
 30.24.035 Recodified as RCW 11.100.035. (Effective January 1, 1985.)
 30.24.037 Recodified as RCW 11.100.037. (Effective January 1, 1985.)
 30.24.040 Recodified as RCW 11.100.040. (Effective January 1, 1985.)
 30.24.050 Recodified as RCW 11.100.050. (Effective January 1, 1985.)
 30.24.060 Repealed. (Effective January 1, 1985.)
 30.24.070 Recodified as RCW 11.100.070. (Effective January 1, 1985.)
 30.24.090 Recodified as RCW 11.100.090. (Effective January 1, 1985.)
 30.24.120 Recodified as RCW 11.100.120. (Effective January 1, 1985.)
 30.24.130 Recodified as RCW 11.100.130. (Effective January 1, 1985.)

Investment of trust funds generally: Chapter 11.100 RCW.

30.24.010 Recodified as RCW 11.100.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.015 Recodified as RCW 11.100.015. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.020 Recodified as RCW 11.100.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.030 Recodified as RCW 11.100.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.035 Recodified as RCW 11.100.035. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.037 Recodified as RCW 11.100.037. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.040 Recodified as RCW 11.100.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.050 Recodified as RCW 11.100.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.060 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.070 Recodified as RCW 11.100.070. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.090 Recodified as RCW 11.100.090. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.120 Recodified as RCW 11.100.120. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.24.130 Recodified as RCW 11.100.130. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 30.28
COMMON TRUST FUNDS

Sections

30.28.010 Recodified as RCW 11.102.010. (Effective January 1, 1985.)
 30.28.020 Recodified as RCW 11.102.020. (Effective January 1, 1985.)
 30.28.030 Recodified as RCW 11.102.030. (Effective January 1, 1985.)
 30.28.040 Recodified as RCW 11.102.040. (Effective January 1, 1985.)
 30.28.050 Recodified as RCW 11.102.050. (Effective January 1, 1985.)

30.28.010 Recodified as RCW 11.102.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.28.020 Recodified as RCW 11.102.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.28.030 Recodified as RCW 11.102.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.28.040 Recodified as RCW 11.102.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.28.050 Recodified as RCW 11.102.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 30.30

TRUSTEES' ACCOUNTING ACT

Sections

30.30.010	Recodified as RCW 11.106.010. (Effective January 1, 1985.)
30.30.020	Recodified as RCW 11.106.020. (Effective January 1, 1985.)
30.30.030	Recodified as RCW 11.106.030. (Effective January 1, 1985.)
30.30.040	Recodified as RCW 11.106.040. (Effective January 1, 1985.)
30.30.050	Recodified as RCW 11.106.050. (Effective January 1, 1985.)
30.30.060	Recodified as RCW 11.106.060. (Effective January 1, 1985.)
30.30.070	Recodified as RCW 11.106.070. (Effective January 1, 1985.)
30.30.080	Recodified as RCW 11.106.080. (Effective January 1, 1985.)
30.30.090	Recodified as RCW 11.106.090. (Effective January 1, 1985.)
30.30.100	Recodified as RCW 11.106.100. (Effective January 1, 1985.)
30.30.110	Recodified as RCW 11.106.110. (Effective January 1, 1985.)
30.30.120	Recodified as RCW 11.96.150. (Effective January 1, 1985.)

30.30.010 Recodified as RCW 11.106.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.020 Recodified as RCW 11.106.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.030 Recodified as RCW 11.106.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.040 Recodified as RCW 11.106.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.050 Recodified as RCW 11.106.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.060 Recodified as RCW 11.106.060. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.070 Recodified as RCW 11.106.070. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.080 Recodified as RCW 11.106.080. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.090 Recodified as RCW 11.106.090. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.100 Recodified as RCW 11.106.100. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.110 Recodified as RCW 11.106.110. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.30.120 Recodified as RCW 11.96.150. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 30.99

WASHINGTON TRUST ACT

Sections

30.99.010	Recodified as RCW 11.98.009. (Effective January 1, 1985.)
30.99.020	Recodified as RCW 11.97.010. (Effective January 1, 1985.)
30.99.030	Recodified as RCW 11.98.016. (Effective January 1, 1985.)
30.99.040	Recodified as RCW 11.98.029. (Effective January 1, 1985.)
30.99.050	Recodified as RCW 11.98.039. (Effective January 1, 1985.)
30.99.060	Recodified as RCW 11.98.060. (Effective January 1, 1985.)
30.99.070	Recodified as RCW 11.98.070. (Effective January 1, 1985.)
30.99.080	Recodified as RCW 11.98.090. (Effective January 1, 1985.)
30.99.090	Recodified as RCW 11.98.100. (Effective January 1, 1985.)
30.99.100	Recodified as RCW 11.98.110. (Effective January 1, 1985.)
30.99.110	Decodified.
30.99.900	Recodified as RCW 11.98.910. (Effective January 1, 1985.)
30.99.910	Recodified as RCW 11.98.920. (Effective January 1, 1985.)

30.99.010 Recodified as RCW 11.98.009. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.020 Recodified as RCW 11.97.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.030 Recodified as RCW 11.98.016. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.040 Recodified as RCW 11.98.029. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.050 Recodified as RCW 11.98.039. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.060 Recodified as RCW 11.98.060. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.070 Recodified as RCW 11.98.070. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.080 Recodified as RCW 11.98.090. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.090 Recodified as RCW 11.98.100. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.100 Recodified as RCW 11.98.110. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.110 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.900 Recodified as RCW 11.98.910. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

30.99.910 Recodified as RCW 11.98.920. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapters

31.12 Washington state credit union act.

31.13 Central credit unions.

Chapter 31.12

WASHINGTON STATE CREDIT UNION ACT

Sections

31.12.005 Definitions.
 31.12.010 Repealed.
 31.12.015 Declaration of policy.
 31.12.020 Repealed.
 31.12.025 Use of words in name.
 31.12.030 Repealed.
 31.12.035 Application for permission to organize—Approval.
 31.12.040 Repealed.
 31.12.045 Limitation on membership.
 31.12.050 Repealed.

31.12.055 Manner of organizing—Articles of incorporation—Submission to supervisor.
 31.12.065 Bylaws—Submission to supervisor.
 31.12.075 Approval, refusal of proposed credit union—Appeal.
 31.12.080 Repealed.
 31.12.085 Filing upon approval—Fee—Notice to supervisor—Authority to commence business.
 31.12.090 Repealed.
 31.12.095 Articles of incorporation and bylaws—Forms to be supplied.
 31.12.100 Repealed.
 31.12.105 Amendment to articles of incorporation—Approval.
 31.12.110 Repealed.
 31.12.115 Amendment to bylaws—Approval.
 31.12.120 Repealed.
 31.12.125 Powers.
 31.12.130 Repealed.
 31.12.135 Repealed.
 31.12.136 Additional powers—Powers conferred on federal credit union—Authority of supervisor—Adoption of power by resolution of board.
 31.12.140 Repealed.
 31.12.145 Membership.
 31.12.150 Repealed.
 31.12.155 Minors.
 31.12.160 Repealed.
 31.12.165 Service charge for dormant accounts.
 31.12.170 Repealed.
 31.12.175 Fiscal year.
 31.12.180 Repealed.
 31.12.185 Regular meetings—Voting rights.
 31.12.190 Repealed.
 31.12.195 Special meetings—Report of results.
 31.12.200 Repealed.
 31.12.205 Repealed.
 31.12.206 Special meetings to remove majority of board—Petition for cease and desist order—Issuance and scope of order.
 31.12.210 Repealed.
 31.12.215 Notice of intent to establish branch.
 31.12.220 Repealed.
 31.12.225 Board of directors—Election of directors—Terms.
 31.12.230 Repealed.
 31.12.235 Directors—Qualifications—Interim directors.
 31.12.240 Repealed.
 31.12.245 Repealed.
 31.12.246 Removal of directors—Interim directors.
 31.12.250 Repealed.
 31.12.255 Board of directors—Meetings—Powers and duties.
 31.12.260 Repealed.
 31.12.265 Officers.
 31.12.270 Repealed.
 31.12.275 Removal of officers by board.
 31.12.280 Repealed.
 31.12.285 Suspension of members of board or supervisory committee by board.
 31.12.290 Repealed.
 31.12.295 Expulsion of member by board.
 31.12.300 Repealed.
 31.12.305 Repealed.
 31.12.306 Surety bonds.
 31.12.310 Repealed.
 31.12.315 Loans and lines of credit—Requirements for applications—Approval.
 31.12.320 Repealed.
 31.12.325 Repealed.
 31.12.326 Supervisory committee—Membership—Terms.
 31.12.330 Repealed.
 31.12.335 Supervisory committee—Duties.
 31.12.340 Repealed.
 31.12.345 Suspension of officers, members of a committee, or members of the board by supervisory committee.
 31.12.350 Repealed.
 31.12.355 Reports by supervisory committee—Penalty.
 31.12.360 Repealed.

31.12.365 Directors and members of committees—Compensation—Reimbursement—Loans.

31.12.370 Repealed.

31.12.373 Repealed.

31.12.376 Capital.

31.12.377 Repealed.

31.12.380 Repealed.

31.12.385 Shares and deposits governed by chapter 30.22
RCW—Limitation on shares and deposits—Notice of withdrawal.

31.12.390 Repealed.

31.12.395 Membership fee.

31.12.400 Repealed.

31.12.406 Loans to members—Classes of loans.

31.12.410 Repealed.

31.12.415 Residential real estate loans.

31.12.425 Deposit or investment of capital or surplus funds—
Investment committee.

31.12.430 Repealed.

31.12.435 Investment in real property or leasehold interests for
own use.

31.12.440 Repealed.

31.12.445 Reserve requirements.

31.12.450 Repealed.

31.12.455 Alternative reserve requirement—Approval.

31.12.460 Repealed.

31.12.465 Liquidity reserve.

31.12.470 Repealed.

31.12.475 Special reserve fund.

31.12.480 Repealed.

31.12.485 Dividends.

31.12.495 Distribution of surplus earnings.

31.12.500 Repealed.

31.12.505 Repealed.

31.12.506 Limitation on expenditures—Waiver.

31.12.510 Repealed.

31.12.515 Repealed.

31.12.516 Powers of supervisor.

31.12.520 Repealed.

31.12.525 Repealed.

31.12.526 Authority of out-of-state credit union to operate in this
state—Conditions.

31.12.530 Repealed.

31.12.535 Rule-making authority.

31.12.545 Examinations and investigations—Reports—
Communications.

31.12.555 Investigations of credit union service organizations.

31.12.565 Examination reports and information confidential—
Exceptions—Penalty.

31.12.575 Suspension of director or principal operating officer by
supervisor—Notice—Order of suspension—
Removal.

31.12.585 Prohibited acts—Notice of charges—Hearing—
Cease and desist order.

31.12.595 Temporary cease and desist order.

31.12.605 Injunction setting aside, limiting, or suspending tempor-
ary cease and desist order.

31.12.615 Injunction to enforce temporary cease and desist order.

31.12.625 Administrative hearing—Decision—Orders.

31.12.635 Prohibited acts—Penalty.

31.12.645 Prohibited acts of officer, director, agent, or em-
ployee—Penalty.

31.12.655 Authority of supervisor to call special meeting of board.

31.12.665 Authority of supervisor to attend meetings of the board.

31.12.675 Insolvency—Suspension or revocation of articles—
Placement in involuntary liquidation—Appointment
of liquidating agent—Notice—Procedure—
Effect.

31.12.685 Order directing involuntary liquidation—Designation
of liquidating agent—Procedure.

31.12.695 Mergers.

31.12.705 Conversion of state to federal credit union.

31.12.715 Conversion of federal to state credit union.

31.12.720 Satellite facilities.

31.12.725 Liquidation—Disposition of unclaimed funds.

31.12.735 Taxation of credit unions.

31.12.900 Repealed.

31.12.901 Repealed.

31.12.902 Short title.

31.12.903 Application of chapter to credit unions operating on
July 1, 1984.

31.12.904 Severability—1984 c 31.

31.12.905 Effective date—1984 c 31.

31.12.005 Definitions. Unless the context clearly re-
quires otherwise, as used in this chapter:

(1) "Board" means the board of directors of a credit
union.

(2) "Branch" means any office, other than the princi-
pal place of business, maintained by a credit union for
the purpose of providing services directly to its members.
"Branch" does not include a facility that is limited to an
electronic funds transferring machine that can be oper-
ated without the assistance of an employee of a credit
union.

(3) "Credit union" means a credit union organized
and operating under this chapter.

(4) "Employees" means the principal operating officer
and other operating personnel of a credit union.

(5) "Federal credit union" means a credit union orga-
nized and operating under the laws of the United States.

(6) "Officers" means the officers of the board of a
credit union who are elected under RCW 31.12.265.

(7) "Shares" and "deposits" are synonymous and in-
terchangeable. Shares and deposits of a credit union
shall be subject to such terms and conditions as estab-
lished by the board of the credit union.

(8) "Supervisor" means the supervisor of savings and
loan associations appointed under RCW 43.19.100, or
the duly authorized agent of the supervisor of savings
and loan associations.

(9) "Supervisory committee" means a committee hav-
ing the powers and duties set forth in RCW 31.12.326
through 31.12.355. Supervisory committees are the stat-
utory successors of auditing committees. [1984 c 31 §
2.]

31.12.010 Repealed. See Supplementary Table of
Disposition of Former RCW Sections, this volume.

31.12.015 Declaration of policy. A credit union is a
cooperative society organized for the purposes of pro-
moting thrift among its members and creating a source
of credit for them at fair and reasonable rates of inter-
est. The supervisor is the state's credit union regulatory
authority whose purpose is to protect the members' fi-
nancial interests, the integrity of credit unions as co-
operative institutions, and the interests of the general
public, and to ensure that state-chartered credit unions
remain viable and competitive in this state. [1984 c 31 §
3.]

31.12.020 Repealed. See Supplementary Table of
Disposition of Former RCW Sections, this volume.

31.12.025 Use of words in name. (1) A credit union
shall include in its name the words "credit union."

(2) No person, partnership, association, corporation,
or other organization may transact business or engage in

any other activity under a name or title containing the words "credit union" unless it is:

(a) A credit union;

(b) An organization comprised of corporations organized under this chapter or under federal credit union laws;

(c) A sole proprietorship, partnership, or corporation that is primarily in the business of managing one or more credit unions; or

(d) An organization specifically authorized under the laws of this state or under federal law to use the words "credit union" in its name. [1984 c 31 § 4.]

31.12.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.035 Application for permission to organize—Approval. Seven or more persons who reside in this state may apply to the supervisor for permission to organize a credit union. The supervisor shall approve the application if it is in compliance with this chapter. [1984 c 31 § 5.]

31.12.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.045 Limitation on membership. (1) Membership in a credit union shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. The supervisor may adopt rules: (a) Reasonably defining "common bond"; and (b) setting forth standards for the approval of charters.

(2) The supervisor may approve the inclusion within the field of membership of a credit union a group having a separate common bond if the supervisor determines that the group is not of sufficient size or resources to support a viable credit union of its own. [1984 c 31 § 6.]

31.12.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.055 Manner of organizing—Articles of incorporation—Submission to supervisor. (1) Persons applying for the organization of a credit union shall execute articles of incorporation stating:

(a) The initial name of the proposed credit union and its location;

(b) That the duration of the credit union is perpetual;

(c) That the purpose of the credit union is to engage in the business of a credit union and any other lawful activities permitted to a credit union by applicable laws and rules;

(d) The number of its directors, which shall not be less than five nor greater than fifteen, and the names, occupations, and addresses of the persons who are to serve as the initial directors;

(e) The names, occupations, and addresses of the subscribers to the articles of incorporation, and a statement of the number of shares which each has agreed to take; and

(f) The initial par value of the shares of the credit union.

(2) Applicants shall submit the articles of incorporation in triplicate to the supervisor. [1984 c 31 § 7.]

31.12.065 Bylaws—Submission to supervisor. (1) Persons applying for the organization of a credit union shall adopt bylaws that are consistent with this chapter and that prescribe the manner in which the business of the credit union shall be conducted. The bylaws shall include:

(a) The name of the credit union;

(b) The purposes of the credit union;

(c) The qualifications for membership in the credit union, including the minimum number of shares, if any, required for membership status, and the standards and procedures for expelling a member who has failed to maintain the minimum number of shares;

(d) The number of directors and supervisory committee members, and the length of terms they serve;

(e) The frequency of regular meetings of the board and the supervisory committee, and the manner in which members of the board or supervisory committee are to be notified of meetings;

(f) The powers and duties of the officers elected by the board;

(g) The timing of the annual meeting and the manner in which members are to be notified of membership meetings, including special membership meetings;

(h) The number of members constituting a quorum at a membership meeting; and

(i) Other matters considered appropriate by the applicants to be included in the bylaws.

(2) Applicants shall submit the bylaws in duplicate to the supervisor. [1984 c 31 § 8.]

31.12.075 Approval, refusal of proposed credit union—Appeal. (1) When articles of incorporation and bylaws complying with the requirements of RCW 31.12.055 and 31.12.065 have been filed with the supervisor, the supervisor shall:

(a) Determine whether the articles of incorporation and bylaws are consistent with the purposes and requirements of this chapter; and

(b) Determine the feasibility of the credit union, taking into account surrounding facts and circumstances pertaining to a successful operation of a credit union.

The supervisor may establish by rule, as a prerequisite to approval of a proposed credit union, specific criteria consistent with the purposes and policies of this chapter.

(2) If the supervisor is satisfied with the determinations made under subsection (1)(a) and (b) of this section, the supervisor shall endorse each of the articles of incorporation "approved" and indicate the date the approval is granted, and return two sets of articles and one set of bylaws to the applicants.

(3) If the supervisor is not satisfied with the determinations made under subsection (1)(a) and (b) of this section, the supervisor shall endorse each of the articles of incorporation "refused," indicate the date of and reasons for the refusal, and return two copies of the articles

of incorporation with one copy of the bylaws to the person from whom they were received. The supervisor shall at the time of returning the copies of the articles of incorporation and bylaws also provide notice to the applicant of the applicant's right to appeal the refusal under chapter 34.04 RCW. The refusal is conclusive unless the applicant requests a hearing under chapter 34.04 RCW.

(4) The supervisor shall accept or refuse the articles of incorporation within sixty days of receipt. [1984 c 31 § 9.]

31.12.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.085 Filing upon approval—Fee—Notice to supervisor—Authority to commence business. (1) Upon the approval of the supervisor under RCW 31.12.075(2), the applicants shall file a copy of the articles of incorporation with the secretary of state. Upon receipt of the approved articles of incorporation and a five dollar filing fee to be provided by the applicants, the secretary of state shall file and record the articles of incorporation. The applicants shall in writing promptly notify the supervisor of the exact date of the filing.

(2) Upon the filing and recording of the approved articles of incorporation with the secretary of state, the persons named in the articles of incorporation and their successors may operate as a credit union, which shall have the powers and be subject to the duties and obligations of this chapter. A credit union shall not conduct business until the articles have been recorded by the secretary of state.

(3) A credit union shall organize and begin business within six months of the date that its articles of incorporation are filed and recorded with the secretary of state or its charter shall become void, unless the supervisor for cause grants an extension of the six-month period. The supervisor shall not grant a single extension exceeding three months, but may grant as many extensions to a credit union as circumstances require. [1984 c 31 § 10.]

31.12.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.095 Articles of incorporation and bylaws—Forms to be supplied. In order to simplify the organization of credit unions the supervisor shall cause to be prepared forms of articles of incorporation and bylaws consistent with this chapter and, upon written application of seven residents of this state, shall supply to the applicants, at no cost, blank forms of the suggested articles of incorporation and bylaws. [1984 c 31 § 11.]

31.12.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.105 Amendment to articles of incorporation—Approval. The articles of incorporation of a credit union may be amended, with the approval of the supervisor, by a resolution of the board. Amendments to

the articles of incorporation shall be filed with the supervisor and the secretary of state. [1984 c 31 § 12.]

31.12.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.115 Amendment to bylaws—Approval. (1) Subject to the approval of the supervisor under subsection (2) of this section, the bylaws of a credit union may be amended by the board of directors at any regular meeting or at a special meeting called for that purpose. An amendment of the bylaws requires the affirmative vote of two-thirds of the total members of the board. At least seven days before a meeting at which an amendment to the bylaws is to be voted upon, a copy of the proposed amendment, together with a written notice of the meeting as provided in the bylaws, shall be served upon each member of the board either personally or by mail to the director's last known post office address.

(2) An amendment to the bylaws of a credit union shall not become operative until it has been approved by the supervisor. The supervisor shall approve or disapprove an amendment within thirty days of receipt. [1984 c 31 § 13.]

31.12.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.125 Powers. A credit union may:

(1) Issue shares to and receive deposits from its members as provided in this chapter and the bylaws of the credit union;

(2) Make loans to its members as provided in this chapter and the bylaws of the credit union;

(3) Pay dividends or interest to its members;

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans in accordance with the bylaws of the credit union and recover reasonable costs and expenses, including reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due it if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, hypothecate, sell, or otherwise dispose of a possessory interest in personal property and, with the prior written permission of the supervisor, in real property, so long as the property is necessary or incidental to the operation of the credit union. The written permission of the supervisor is not required for the acquisition and disposition of property through the collection of loans secured by the property;

(7) Deposit and invest funds in excess of the amount approved for loans to members as provided in this chapter;

(8) Borrow money, up to a maximum of fifty percent of its paid-in and unimpaired capital and surplus;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union. A credit union may not discount or sell more than ten percent of its

assets without the prior written approval of the supervisor;

(10) Accept deposits of deferred compensation of its members under the terms and conditions of RCW 28A-58.740 and 41.04.250(2);

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in other credit unions organized under this chapter or other laws and in associations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law; and

(14) Exercise such incidental powers as are necessary or requisite to enable it to carry on effectively the business for which it is incorporated. [1984 c 31 § 14.]

31.12.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.135 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.136 Additional powers—Powers conferred on federal credit union—Authority of supervisor—Adoption of power by resolution of board. (1) Notwithstanding any other provision of law, a credit union may exercise any of the powers or authority conferred as of July 1, 1984, upon a federal credit union doing business in this state.

(2) In addition to the powers conferred under subsection (1) of this section, the supervisor may by rule authorize credit unions to exercise any of the powers conferred at the time of the adoption of the rule upon a federal credit union doing business in this state if the supervisor finds that the exercise of power serves the convenience and advantage of depositors and borrowers of state-chartered credit unions, and maintains the fairness of competition and parity between state-chartered credit unions and federal-chartered credit unions.

(3) Before exercising a power under subsection (1) or (2) of this section, the board of a credit union shall adopt a resolution identifying and formally adopting that power. [1984 c 31 § 15.]

31.12.140 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.145 Membership. A credit union may admit to membership those persons qualified for membership as set forth in its bylaws upon the payment of a membership fee, if any, or the purchase of one or more shares, as provided in the bylaws. A fraternal organization, partnership, or corporation having a usual place of business in this state and comprised principally of persons who are eligible for membership in the credit union may become a member of the credit union. [1984 c 31 § 16.]

31.12.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.155 Minors. Shares may be issued in the name of a minor and the shares may, in the discretion of the board, be withdrawn by the minor or by the minor's parent or guardian. A minor under age eighteen does not have the right to vote as a member. [1984 c 31 § 17.]

31.12.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.165 Service charge for dormant accounts. A credit union may impose a reasonable service charge for the processing of accounts that remain dormant for a period of time specified by the board. [1984 c 31 § 18.]

31.12.170 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.175 Fiscal year. The fiscal year of a credit union shall end on the 31st day of December. [1984 c 31 § 19.]

31.12.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.185 Regular meetings—Voting rights. (1) The regular membership meeting of a credit union shall be held annually within ninety days of the end of the fiscal year, at such time and place as the bylaws prescribe, and shall be conducted according to the customary rules of parliamentary procedure.

(2) Notice of regular meetings of a credit union shall be given as provided in the bylaws of the credit union.

(3) No member may have more than one vote regardless of the number of shares held by the member. A fraternal organization, voluntary association, partnership, or corporation having a membership in a credit union may cast one vote by its authorized agent, who shall be an officer of the organization, association, partnership, or corporation. Voting by mail ballot may be authorized by the board as prescribed in the bylaws. [1984 c 31 § 20.]

31.12.190 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.195 Special meetings—Report of results. (1) A special meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand, whichever is less, of the voting members of a credit union. A request for a special meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. If the special meeting is being called for the removal of a director the notice shall state the name of the director whose removal is sought.

(2) Upon receipt of a request for a special meeting, the secretary of the credit union shall designate the time and place at which the special meeting will be held. The

designated place of the meeting shall be a reasonable location within the county in which the principal office of the credit union is located. The designated time of the meeting shall be no sooner than twenty nor later than thirty days after the request is received by the secretary. The secretary shall within ten days of receipt of the request give notice of the meeting, including the purpose for which the meeting is called, as provided in the bylaws. A wilful violation of this section constitutes a violation of this chapter and constitutes grounds sufficient for the suspension and removal of the secretary under RCW 31.12.575.

(3) Except as provided in this subsection, the chairman or president of the board shall preside over special meetings. If the purpose of the special meeting includes the proposed removal of the chairman or president from the board, the next highest ranking officer of the board whose removal is not sought shall preside over the special meeting. If the removal of all of the officers of the board is sought, the chairman of the supervisory committee shall preside over the special meeting. After every special meeting, the chairman of the supervisory committee shall report to the supervisor the results of the special meeting and whether the special meeting was conducted in a fair manner in accordance with the bylaws of the credit union and with customary rules of parliamentary procedure. [1984 c 31 § 21.]

31.12.200 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.205 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.206 Special meetings to remove majority of board—Petition for cease and desist order—Issuance and scope of order. Members of a credit union who are calling for a special meeting, the purpose of which is to remove a majority of the board, may file a petition with the supervisor setting forth the reasons for which removal is sought and seeking the issuance of a cease and desist order. The supervisor may, after reviewing the merits of the petition, issue a cease and desist order prohibiting the directors and employees of the credit union from conducting any credit union business outside the scope of the usual daily affairs of the credit union. The cease and desist order shall remain in effect until revoked or modified by the supervisor or until the conclusion of the special meeting. [1984 c 31 § 22.]

31.12.210 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.215 Notice of intent to establish branch. A credit union desiring to establish a branch shall submit to the supervisor a notice of intent to establish a branch on a form provided by the supervisor at least thirty days before conducting business at the branch. [1984 c 31 § 23.]

31.12.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.225 Board of directors—Election of directors—Terms. The business and affairs of a credit union shall be managed by a board of not less than five nor greater than fifteen directors. The directors shall be elected at the annual meetings. The directors, as well as the principal operating officer and committee members of the credit union, shall be sworn to the faithful performance of their duties. The directors shall hold their offices, unless sooner removed as provided in this chapter, until their successors are qualified under RCW 31.12.235. Directors shall be elected to terms of between one and three years, as provided in the bylaws. If the terms are longer than one year, the terms shall be divided into classes, and an equal number of terms, as near as possible, shall be elected each year. [1984 c 31 § 24.]

31.12.230 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.235 Directors—Qualifications—Interim directors. (1) A director shall be a member of the credit union. If a director ceases to be a member of the credit union, the director shall no longer serve as director.

(2) A director shall no longer serve as director if the director in any twelve-month period is absent from more than thirty-three percent of the regular board meetings required by this chapter.

(3) The remainder of the term of a director's office that becomes vacant under subsection (1) or (2) of this section shall be served by an interim director appointed by the board. [1984 c 31 § 25.]

31.12.240 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.245 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.246 Removal of directors—Interim directors. The members of a credit union may remove a director of the credit union at a special meeting called for that purpose. If the members remove a director, the members may at the same special meeting elect an interim director to complete the remainder of the director's term of office or may elect to authorize the board to appoint an interim director as provided in RCW 31.12.235. [1984 c 31 § 26.]

31.12.250 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.255 Board of directors—Meetings—Powers and duties. The board shall have the general direction of the affairs of the credit union. The board shall meet as often as necessary, but not less than once each month. The board shall:

(1) Act upon applications for membership with the credit union. The board may authorize a membership officer to approve applications under conditions prescribed by the board;

(2) Expel members for cause as provided in this chapter;

(3) Borrow and invest money on behalf of the credit union as provided by this chapter or authorize an investment committee to invest money;

(4) Determine the maximum amount of shares and deposits that a member may hold in the credit union;

(5) Declare dividends on shares and set the rate of interest on deposits in the manner and form provided in the bylaws;

(6) Determine the amount which may be loaned to a member and the finance charges, including interest, to be charged on the loans;

(7) Prescribe the conditions and terms under which a loan officer or credit committee may approve loans;

(8) Set the minimum number of shares, if any, required for active member status;

(9) Fill vacancies on all committees except the supervisory committee;

(10) Set the par value of shares of the credit union;

(11) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;

(12) Approve the charge-off of credit union losses; or

(13) Perform such other acts as are required by this chapter. [1984 c 31 § 27.]

31.12.260 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.265 Officers. The board at its first meeting after the annual meeting of the members shall elect from its own members a chairman or president, and one or more vice chairmen or vice presidents, a secretary, a treasurer, and other officers that may be necessary for transacting the business of the board of the credit union. The officers of the board of the credit union shall hold office until their successors are elected and qualified, unless sooner removed as provided by this chapter. The offices of secretary and treasurer may be held by the same person. The treasurer need not be an elected member of the board. The board may designate such employees, including a principal operating officer who shall not share the title chosen for the chairman or president of the board and who need not be a member of the board, as are necessary for the operation of the credit union. [1984 c 31 § 28.]

31.12.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.275 Removal of officers by board. The board may for cause remove an officer from office or a committee member from a committee, other than the supervisory committee. For the purpose of this section "cause" includes demonstrated financial irresponsibility or activities which, in the judgment of the board, are detrimental to the credit union. [1984 c 31 § 29.]

31.12.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.285 Suspension of members of board or supervisory committee by board. The board may, by a two-thirds vote, suspend for cause a member of the board or a member of the supervisory committee until a membership meeting is held. The meeting shall be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party. [1984 c 31 § 30.]

31.12.290 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.295 Expulsion of member by board. (1) The board may, by a two-thirds vote, expel a member for cause. The board shall notify the member of the expulsion and the reasons upon which it is based. The board shall, upon request of the expelled member, allow the member to challenge the expulsion and seek reinstatement as a member.

(2) The amounts paid in on shares or deposited by a member who has been expelled shall be paid to the member after deducting amounts due from the member(s) to the credit union. Expulsion shall not operate to relieve a member from outstanding liabilities owed to the credit union. [1984 c 31 § 31.]

31.12.300 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.305 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.306 Surety bonds. (1) Each director, committee member, and employee of a credit union shall be bonded in an amount and with surety and conditions established by the supervisor.

(2) When the bond coverage under subsection (1) of this section is suspended or terminated, the board of the affected credit union shall notify the supervisor in writing within five days of having received notice of the suspension or termination. [1984 c 31 § 32.]

31.12.310 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.315 Loans and lines of credit—Requirements for applications—Approval. A credit committee or loan officer, as the bylaws may provide, shall act upon all applications for loans and lines of credit under the terms and conditions prescribed by the board. All applications for loans or lines of credit shall be in writing and shall state the purpose for which the loan or line of credit is desired and the security, if any, offered. Approval of loans and lines of credit shall be in writing. [1984 c 31 § 33.]

31.12.320 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.325 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.326 Supervisory committee—Membership—Terms. A supervisory committee of at least three members shall be elected at the annual meeting of the credit union. A member of the supervisory committee shall serve a term of three years, unless sooner removed under this chapter or until a successor commences the performance of the member's duties. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is elected each year. If a member of the supervisory committee ceases to be a member of the credit union, the member's office shall become vacant. The supervisory committee shall fill vacancies in its membership until successors are elected, except that if all positions on the committee are vacant at the same time the board may fill the vacancies until the next annual meeting. No officer or employee of a credit union may serve on the supervisory committee of that credit union. No more than one director may be a member of the supervisory committee at the same time. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee. [1984 c 31 § 34.]

31.12.330 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.335 Supervisory committee—Duties. The supervisory committee of a credit union shall:

- (1) Meet as often as necessary and at least quarterly;
- (2) Keep fully informed as to the financial condition of the credit union;
- (3) Cause to be made semiannually a complete examination of the cash, the credit union accounts, including income and expense, and the members' share accounts in accordance with rules adopted by the supervisor; and
- (4) Report its findings and recommendations to the board and make an annual report to the members at the annual meeting. [1984 c 31 § 35.]

31.12.340 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.345 Suspension of officers, members of a committee, or members of the board by supervisory committee. By unanimous vote the supervisory committee of a credit union may suspend for cause an officer of the credit union, a member of a committee, or a member of the board until a membership meeting is held. The meeting shall be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party. [1984 c 31 § 36.]

31.12.350 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.355 Reports by supervisory committee—Penalty. Within forty-five days after the end of the fiscal year of a credit union, the supervisory committee of a credit union shall make a report to the supervisor on a form provided by the supervisor. A credit union that fails to submit the report within the time prescribed, or that fails to submit other reports within thirty days of a written request by the supervisor, shall pay to the state five dollars for each day until the report is submitted. The penalty for any single delinquency shall not exceed one hundred dollars and may be waived by the supervisor. [1984 c 31 § 37.]

31.12.360 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.365 Directors and members of committees—Compensation—Reimbursement—Loans. Directors and members of committees shall not receive compensation for their services, except to the extent that an officer serving as principal operating officer may receive compensation. Directors and members of committees may receive reimbursement for reasonable expenses incurred in the performance of their duties. Loans to directors and committee members shall be under no more favorable conditions and terms than those under which loans to general members are made. [1984 c 31 § 38.]

31.12.370 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.373 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.376 Capital. The capital of a credit union consists of the money paid in by its members on shares and deposits under RCW 31.12.385 and membership fees, if any, paid under RCW 31.12.395. [1984 c 31 § 39.]

31.12.377 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.380 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.385 Shares and deposits governed by chapter 30.22 RCW—Limitation on shares and deposits—Notice of withdrawal. Shares purchased and deposits made in a credit union by an individual are governed by chapter 30.22 RCW. An individual member may purchase shares and make deposits in a credit union in an amount that does not exceed five hundred dollars or twenty percent of the total shares of the credit union, whichever is greater. A fraternal organization, partnership, or corporation that is a member may purchase shares and make deposits in an amount that does not exceed twenty percent of the assets of the credit union, unless the supervisor authorizes a greater amount. A credit union may require from a member ninety days notice of the intention to withdraw shares or deposits. The notice requirement may be extended with the written consent of the supervisor. [1984 c 31 § 40.]

31.12.390 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.395 Membership fee. The board of a credit union may establish as a condition of membership a membership fee to be paid by a member upon becoming a member. [1984 c 31 § 41.]

31.12.400 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.406 Loans to members—Classes of loans.

(1) A credit union may make loans to its members with the approval of a credit committee or loan officer. A credit union shall not make loans to a fraternal organization, partnership, or corporation in excess of the total shares of the organization, partnership, or corporation without the written consent of the supervisor.

(2) A credit union may make to individual members:

(a) Personal loans secured by the note of the member or other adequate security, including, but not limited to, equity interests in real estate, automobiles, boats, motorhomes, and travel trailers. The aggregate of personal loans to one member shall be limited to five thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, unless the supervisor approves in writing a greater loan amount. Personal loans shall be payable within twelve years unless the personal loan is fully secured by the member's equity interest in real estate, in which case the loan shall be payable within fifteen years;

(b) Student loans under student loan programs of this state or the United States;

(c) Loans for the acquisition of a modular home or mobile home as defined by RCW 82.50.010, secured by a first security interest in that modular home or mobile home, owned by the member. A loan under this subsection shall not exceed eighty-five percent of the purchase price or of the appraised value of the modular home or mobile home, whichever is less, and shall have a maturity not to exceed twenty years;

(d) Residential real estate loans under RCW 31.12.415;

(e) Loans to its members under an act of congress known as the "FHA Title I, National Housing Act of 1934," June 27, 1934 (12 U.S.C. Sec. 1701 to 1750, inc.); and

(f) Loans to credit union members in participation with other credit unions, credit union organizations, or financial organizations. The credit union which originates a loan under this subsection shall retain an interest of at least ten percent of the face amount of the loan unless the loan is a real estate loan in which case there is no retention requirement.

(3) Personal loans shall be given preference, and in the event there are not sufficient funds available to satisfy all approved loan applicants, further preference shall be given to small loans. [1984 c 31 § 42.]

31.12.410 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.415 Residential real estate loans. (1) For purposes of this section a residential real estate loan is a loan secured by a first mortgage, deed of trust, real estate contract, or other first lien on the borrower's interest in a one-to-four family dwelling, including an individual cooperative unit, or a loan made for the construction of the dwelling. The dwelling shall be insured by hazard insurance in an amount at least as great as the credit union's interest in the dwelling or the value of the dwelling, whichever is less. A residential real estate loan shall not exceed ten thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, without the approval of the supervisor.

(2) Except for loans made with the intent of sale on the secondary market, the total amount of loans held by a credit union under this section shall not exceed:

(a) Ten percent of its total assets if its total assets are less than one hundred thousand dollars;

(b) Twenty percent of its total assets if its total assets are greater than one hundred thousand dollars but less than one million dollars; or

(c) Thirty percent of its total assets if its total assets are greater than one million dollars. [1984 c 31 § 43.]

31.12.425 Deposit or investment of capital or surplus funds—Investment committee.

(1) The capital or surplus funds in excess of the amount for which loans are approved may be deposited or invested in any of the following ways, so long as the investment has not been in default as to principal or interest within five years prior to the date of purchase:

(a) Accounts in banks or trust companies, including national banks located in this state, or other states, which accounts are insured by the federal deposit insurance corporation;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under Section 9101 of Title 31 U.S.C., or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Shares, share certificates, or share deposits of other credit unions or savings and loan associations organized or authorized to do business under the laws of this state, other states, or the United States, which are insured or guaranteed by the federal savings and loan insurance corporation, the national credit union administration, the Washington credit union share guaranty association, or another insurer approved by the supervisor;

(f) Common trust funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to two percent of a corporation owned by the Washington credit union league;

(h) Shares, stocks, loans, or other obligations of an organization of which the membership or ownership is confined primarily to credit unions and the purpose of which is to strengthen, advance, or provide services to the credit union industry. An investment under subsection (1)(h) of this section shall be limited to one percent of the total paid-in and unimpaired capital and surplus of the credit union;

(i) Loans to other credit unions organized or authorized to do business under the laws of this state, other states, or the United States. The aggregate of loans issued under this subsection shall be limited to twenty-five percent of the paid-in and unimpaired capital of the lending credit union; or

(j) Other investments authorized in accordance with rules adopted by the supervisor consistent with this chapter.

(2) The board may appoint an investment committee to make and manage the investments under this section. An investment committee shall remain subject to the supervision of the board. [1984 c 31 § 44.]

31.12.430 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.435 Investment in real property or leasehold interests for own use. (1) A credit union may invest a reasonable amount of its funds in real property or leasehold interests for its own use in conducting business if:

(a) The aggregate of its regular reserve and its undivided earnings equals five percent of the total of its share accounts;

(b) The board approves the investment in real property for its own use in conducting business by a two-thirds majority vote of the total number of directors;

(c) The total investment in the property does not exceed seven and one-half percent of the aggregate of its share and deposit accounts; and

(d) The supervisor approves of the investment in writing.

(2) The supervisor may waive the restrictions of this section. The restrictions of this section do not affect investments existing as of July 1, 1984. [1984 c 31 § 45.]

31.12.440 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.445 Reserve requirements. (1) At the end of each accounting period and before the payment of dividends to members, a credit union shall set apart as a regular reserve an amount in accordance with subsection (2) of this section.

(2) (a) If a credit union has been in operation for four or more years and has assets of at least five hundred thousand dollars it shall reserve ten percent of gross income until the regular reserve equals four percent of outstanding loans and then shall reserve five percent of gross income until the regular reserve equals six percent of outstanding loans.

(b) If a credit union has been in operation for less than four years or has assets of less than five hundred thousand dollars, it shall reserve ten percent of gross income until the regular reserve equals seven and one-half percent of outstanding loans and then shall reserve five percent of gross income until the regular reserve equals ten percent of outstanding loans.

(c) The supervisor may authorize a credit union falling under subsection (2)(b) of this section to follow the reserving requirements for credit unions falling under subsection (2)(a) of this section.

(d) In computing outstanding loans for purposes of reserving, a credit union may exclude loans secured by shares and loans insured or guaranteed by the federal government or the government of this state to the extent of the security, insurance, or guarantee.

(3) When the regular reserve falls below the percentage of outstanding loans required under subsection (2) of this section, a credit union shall replenish the regular reserve by again reserving a portion of gross income as set forth in subsection (2) of this section.

(4) The regular reserve and the investments thereof shall be held to meet contingencies or losses in the business of the credit union and shall not be distributed to its members except in the case of dissolution or with the permission of the supervisor. [1984 c 31 § 46.]

31.12.450 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.455 Alternative reserve requirement—Approval. A credit union may with the approval of the supervisor, in lieu of complying with the requirements of RCW 31.12.445, comply with the reserve requirements and regulations of the national credit union administration. [1984 c 31 § 47.]

31.12.460 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.465 Liquidity reserve. The supervisor may, if deemed necessary, require a credit union to establish a liquidity reserve of up to five percent of unimpaired capital. The liquidity reserve shall be in cash or investments with maturities of one year or less. [1984 c 31 § 48.]

31.12.470 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.475 Special reserve fund. The supervisor may require a credit union to charge-off or set-up a special reserve fund for such delinquent loans or other assets as in the supervisor's opinion require such action. [1984 c 31 § 49.]

31.12.480 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.485 Dividends. (1) At each annual, semiannual, quarterly, or monthly period the board may declare a dividend from net earnings. The dividends shall

be paid on all eligible shares outstanding at the time of declaration and may be paid to members on shares withdrawn during the period. Shares which became paid-up during the dividend period shall be entitled only to a proportional part of the dividend in accordance with a formula adopted by the board.

(2) Dividends may be declared from the earnings which remain after the deduction of expenses, interest on deposits, and the amounts required for regular, liquidity, and special reserve, or the dividends may be declared in whole or in part from the undivided earnings that remain from preceding periods.

(3) A member shall be given the option to receive declared dividends either by cash payment or by a credit to the member's account in either shares or deposits. [1984 c 31 § 50.]

31.12.495 Distribution of surplus earnings. A credit union may distribute surplus earnings to borrowers as an interest refund ratably in proportion to interest paid by the borrowers. [1984 c 31 § 51.]

31.12.500 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.505 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.506 Limitation on expenditures—Waiver. (1) Except as provided in subsections (2) and (3) of this section, a credit union shall not pay or become liable to pay as salaries, fees, wages, or other compensation to officers, directors, agents, attorneys, and employees and for rent, advertising, and all other operating expenses, sums of money in excess of ten percent of the average amount of assets of the credit union during the prior twelve months.

(2) Subsection (1) of this section notwithstanding, a credit union shall not be limited in its expenditures to a sum less than six hundred dollars in a calendar year.

(3) The supervisor may waive the restrictions of subsection (1) of this section if, in the supervisor's opinion: (a) Circumstances warrant a waiver, and (b) waiver will not jeopardize the financial condition of the credit union. [1984 c 31 § 52.]

31.12.510 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.515 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.516 Powers of supervisor. The powers of supervision and examination of credit unions are vested in the supervisor. The supervisor shall require each credit union to conduct business in compliance with this chapter and other laws that apply to credit unions, and has the power to commence and prosecute actions and proceedings, to enjoin violations, and to collect sums due the state of Washington from a credit union authorized to conduct business under this chapter. [1984 c 31 § 53.]

31.12.520 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.525 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.526 Authority of out-of-state credit union to operate in this state—Conditions. (1) A credit union organized and qualified as a credit union in another state which has not had its authority to operate in another state suspended or revoked may operate as a credit union under this chapter if:

(a) The supervisor has approved an application to do business in this state;

(b) A credit union organized under the laws of this state is permitted to do business in the state in which the credit union is organized;

(c) The interest rate charged by the credit union on loans made to members residing in this state does not exceed the maximum interest rate permitted in the state in which the credit union is organized, or exceed the maximum interest rate which a credit union organized in this state is permitted to charge on similar loans, whichever is lower;

(d) The credit union has secured surety bond and fidelity bond coverages satisfactory to the supervisor;

(e) The credit union has secured for the share accounts of its members insurance or other surety satisfactory to the supervisor;

(f) The credit union submits to the supervisor an annual audit or examination report of its most recently completed fiscal year; and

(g) The credit union complies with all other provisions of this chapter and rules adopted by the supervisor.

(2) The supervisor shall disapprove an application filed under this section or, upon reasonable notice and an opportunity for hearing, suspend or revoke the approval of an application, if the supervisor finds that the standards of organization, operation, and regulation of the credit union do not reasonably conform with the standards under this chapter or that at least fifty percent of the members of the credit union are, or are reasonably expected to be, residents of this state. In considering the standards of organization, operation, and regulation of the credit union, the supervisor may consider the laws and regulations of the state in which the credit union is organized. A decision under this subsection may be appealed under chapter 34.04 RCW.

(3) In implementing this section, the supervisor may cooperate with the administrators of the credit union laws in other states and may share with the administrators the information received in the administration of this chapter.

(4) The supervisor shall adopt rules for the periodic examination and investigation of the affairs of an out-of-state credit union operating in this state. The costs of examination and supervision shall be fully borne by the out-of-state credit union. [1984 c 31 § 54.]

31.12.530 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.535 Rule-making authority. The supervisor may adopt such rules as are reasonable or necessary to carry out the purposes of this chapter. Chapter 34.04 RCW shall wherever applicable govern the rights, remedies, and procedures respecting the administration of this chapter. [1984 c 31 § 55.]

31.12.545 Examinations and investigations—Reports—Communications. (1) The supervisor shall make an examination and full investigation into the affairs of each credit union at least once every eighteen months, unless the supervisor determines with respect to a credit union that a less frequent examination schedule will satisfactorily protect the financial stability of the credit union and will satisfactorily assure compliance with the provisions of this chapter. The actual cost of examination and supervision shall be paid by the credit union examined. The supervisor may waive all or a portion of the examination costs payable by the credit union, in light of the time and expense of the examination and the ability of the credit union to pay the costs. The examination costs with respect to the first examination of a credit union with assets under two hundred thousand dollars shall not be payable by that credit union.

(2) The supervisor may accept in lieu of an examination under subsection (1) of this section the report of an examiner authorized to examine a credit union under the laws of the United States or another state or the report of an accountant, satisfactory to the supervisor, who has made and submitted a report of the condition of the affairs of a credit union and, if approved, the report shall have the same force and effect as an examination under subsection (1) of this section.

(3) Communications from the supervisor to the board of a credit union regarding an examination or report shall be read before the board at its first meeting following the receipt of the communication and the fact that the communication was read before the board shall be noted in the minutes of the meeting. The board shall promptly respond to the supervisor either by stating that steps have been taken to comply with the communication or by stating that the board objects to the communication and stating the reasons for the objection. [1984 c 31 § 56.]

31.12.555 Investigations of credit union service organizations. The supervisor may investigate the affairs of a credit union service organization in which a credit union has an interest. A person or an entity that is not a credit union that has an interest in a credit union service organization in which a credit union has an interest is deemed to have consented to the investigation. For the purposes of this section and RCW 31.12.565, a sole proprietorship, partnership, or corporation that is primarily in the business of managing one or more credit unions shall be considered to be a credit union service organization. [1984 c 31 § 57.]

31.12.565 Examination reports and information confidential—Exceptions—Penalty. (1) Examination reports and information obtained by the supervisor's

staff in conducting examinations of credit unions and credit union service organizations are confidential and privileged information and not subject to public disclosure under chapter 42.17 RCW.

(2) Notwithstanding subsection (1) of this section, the supervisor may furnish examination reports prepared by the supervisor's office to:

(a) Federal agencies empowered to examine state-chartered credit unions;

(b) Officials empowered to investigate criminal charges. The supervisor may furnish only that part of the report which is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;

(c) The examined credit union, solely for its confidential use;

(d) The attorney general in his role as legal advisor to the supervisor;

(e) Prospective merger partners or liquidating agents of a distressed credit union;

(f) Credit union administrators in other states regarding an out-of-state chartered credit union doing business in this state under this chapter, or regarding a credit union chartered under this chapter doing business in another state;

(g) Accounting firms under contract with the credit union;

(h) Companies that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage; or

(i) Companies, associations, or agencies insuring or guaranteeing the shares of or deposits in the credit union.

(3) Examination reports furnished under subsection (2) of this section remain the property of the supervisor's office and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the affairs of an individual or corporation, except that nothing prevents the use in a criminal prosecution of reports furnished under subsection (2)(b) of this section.

(4) In a civil action in which the reports are sought to be discovered or used as evidence, a party upon notice to the supervisor, may petition the court for an in-camera review of the reports. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection does not apply to an action brought or defended by the supervisor.

(5) This section does not apply to investigation reports prepared by the supervisor and the supervisor's staff concerning an application for a new credit union or a notice of intent to establish a branch of a credit union,

except that the supervisor may adopt rules making confidential portions of the reports if in the supervisor's opinion the public disclosure of that portion of the report would impair the ability to obtain information the supervisor considers necessary to fully evaluate the application.

(6) Any person who knowingly violates a provision of this section is guilty of a gross misdemeanor. [1984 c 31 § 58.]

31.12.575 Suspension of director or principal operating officer by supervisor—Notice—Order of suspension—Removal. (1) The supervisor may suspend a director or the principal operating officer of a credit union if, in the opinion of the supervisor, the director or principal operating officer is dishonest, inefficient, incompetent, is wilfully disobeying orders of the supervisor, or is in any way violating this chapter or the bylaws of the credit union. The supervisor shall give prompt notice of and the reasons for the suspension to the board of the affected credit union.

(2) Unless the supervisor specifically provides otherwise in the order of suspension, an order of suspension shall take effect immediately. The suspended person shall be prohibited from all aspects of the operation of the credit union. The suspended person shall be barred from the credit union premises and shall surrender the possession of all property and records of the credit union. A person who knowingly violates an order of suspension or who knowingly aids in the violation of an order of suspension shall be guilty of a gross misdemeanor.

(3) Upon receipt of the notice of suspension, the board shall within twenty days call a meeting of its members to consider the causes of the suspension. The board shall give at least seven days' notice of the time and place of the meeting to the supervisor unless the supervisor agrees to accept shorter notice. If the board finds the supervisor's objection to be well-founded, the board shall remove the suspended person immediately.

(4) If the board fails to remove the suspended person as provided in subsection (3) of this section, the supervisor may remove that person after reasonable notice and an opportunity to be heard under chapter 34.04 RCW. The suspension shall remain in effect for twenty days after the board meeting at which the board considers the suspension, during which time the supervisor may call a hearing under this subsection. If the supervisor calls a hearing, the suspension shall remain in effect until the time of the hearing. [1984 c 31 § 59.]

31.12.585 Prohibited acts—Notice of charges—Hearing—Cease and desist order. (1) The supervisor may issue and serve upon a credit union a notice of charges if in the opinion of the supervisor the credit union:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the credit union;

(b) Is violating or has violated a material provision of any law, rule, or any condition imposed in writing by the

supervisor in connection with the granting of any application or other request by the credit union or any written agreement made with the supervisor; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection if the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or the practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the credit union. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the credit union.

Unless the credit union appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent or if upon the record made at the hearing the supervisor finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the credit union an order to cease and desist from the violation or practice. The order may require the credit union and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the credit union to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the credit union concerned except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court. [1984 c 31 § 60.]

31.12.595 Temporary cease and desist order. If the supervisor determines that the act specified in RCW 31.12.585 is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union or to otherwise seriously prejudice the interests of its depositors, members, or shareholders, the supervisor may issue a temporary order requiring the credit union to cease and desist from the violation or practice. The order shall become effective upon service on the credit union and shall remain effective unless set aside, limited, or suspended by a court in proceedings under RCW 31.12.605 pending the completion of the administrative proceedings under the notice and until the supervisor dismisses the charges specified in the notice or until the effective date of a cease and desist order issued against the credit union under RCW 31.12.585. [1984 c 31 § 61.]

31.12.605 Injunction setting aside, limiting, or suspending temporary cease and desist order. Within ten days after a credit union has been served with a temporary cease and desist order, the credit union may apply to the superior court in the county of its principal place of

business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings under RCW 31.12.585. The superior court shall have jurisdiction to issue the injunction. [1984 c 31 § 62.]

31.12.615 Injunction to enforce temporary cease and desist order. In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 31.12.595, the supervisor may apply to the superior court of the county of the principal place of business of the credit union for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation. [1984 c 31 § 63.]

31.12.625 Administrative hearing—Decision—Orders. (1) An administrative hearing provided in RCW 31.12.585 shall be conducted in accordance with chapter 34.04 RCW. The hearing shall be private unless the supervisor determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

(2) Within sixty days after the hearing, the supervisor shall render a decision which shall include findings of fact upon which the decision is based and the supervisor shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 31.12.585. [1984 c 31 § 64.]

31.12.635 Prohibited acts—Penalty. (1) It is unlawful for a person to perform any of the following acts:

(a) To knowingly subscribe to, make, or cause to be made a false statement or entry in the books of a credit union;

(b) To knowingly make a false statement or entry in a report required to be made to the supervisor; or

(c) To knowingly exhibit a false or fictitious paper, instrument, or security to a person authorized to examine a credit union.

(2) A violation of this section is a class C felony under chapter 9A.20 RCW. [1984 c 31 § 65.]

31.12.645 Prohibited acts of officer, director, agent, or employee—Penalty. Unless otherwise provided by law, it is a misdemeanor for an officer, director, agent, or employee of a credit union to knowingly violate or consent to the violation of this chapter. [1984 c 31 § 66.]

31.12.655 Authority of supervisor to call special meeting of board. The supervisor may request a special meeting of the board of a credit union if the supervisor believes that a special meeting is necessary for the welfare of the credit union or the purposes of this chapter. The supervisor's request for a special meeting shall be made in writing to the secretary of the board and the request shall be handled in the same manner as a call for a special meeting under RCW 31.12.195. The supervisor may require the attendance of all of the directors of the

board at the special meeting, and an absence of a director unexcused by the supervisor constitutes a violation of this chapter. [1984 c 31 § 67.]

31.12.665 Authority of supervisor to attend meetings of the board. (1) The supervisor may attend a regular or special meeting of the board of a credit union if the supervisor believes that attendance at the meeting is necessary for the welfare of the credit union or the purposes of this chapter or if the board has requested the supervisor's attendance. The supervisor shall provide reasonable notice to the board before attending a meeting.

(2) A communication from the supervisor to the board shall upon the request of the supervisor be read to the board at its next meeting and the fact that the communication was read shall be noted in the minutes. [1984 c 31 § 68.]

31.12.675 Insolvency—Suspension or revocation of articles—Placement in involuntary liquidation—Appointment of liquidating agent—Notice—Procedure—Effect. (1) The articles of incorporation of a credit union may be suspended or revoked, the credit union placed in involuntary liquidation, and a liquidating agent appointed upon a finding by the supervisor that the credit union is insolvent.

(2) Except as otherwise provided in this chapter, the supervisor, before suspending or revoking the articles of incorporation of a credit union and placing the credit union in liquidation, shall issue and serve notice on the credit union concerned of the intention to suspend or revoke the articles and an order directing the credit union to show cause why its articles of incorporation should not be suspended or revoked, in accordance with chapter 34.04 RCW.

(3) If the supervisor finds that the credit union is insolvent and the credit union fails to adequately show cause, the articles of incorporation shall be suspended or revoked and the credit union placed in involuntary liquidation. The supervisor shall serve on the credit union an order directing the suspension or revocation and an order directing the involuntary liquidation and appointment of a liquidating agent under RCW 31.12.685, and a statement of the findings on which the order is based.

(4) The suspension or revocation shall be immediate and complete. Once the articles of incorporation are suspended or revoked, the credit union shall cease conducting business. The credit union may not accept any payment on shares or deposits, may not grant or pay out any new or previously approved loans, may not invest any of its assets, and may not declare or pay out any previously declared dividends. The liquidating agent of a credit union whose articles have been suspended or revoked may accept payments on loans previously paid out and may accept income from investments already made. [1984 c 31 § 69.]

31.12.685 Order directing involuntary liquidation—Designation of liquidating agent—Procedure. (1) The supervisor shall designate the liquidating agent in the order directing the involuntary liquidation of the

credit union under RCW 31.12.675. On receipt of the order placing the credit union in involuntary liquidation, the officers and directors of the credit union concerned shall deliver to the liquidating agent possession and control of all books, records, assets, and property of the credit union.

(2) The liquidating agent shall proceed to convert the assets to cash, collect all debts due to the credit union and wind up its affairs in accordance with the instructions and procedures issued by the supervisor. If a liquidating agent agrees to absorb and serve the membership of a distressed credit union the supervisor may approve a pooling of assets and liabilities rather than a distribution of assets.

(3) The liquidating agent shall cause to be published notice of liquidation once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the liquidating credit union is located. The notice of liquidation shall inform creditors of the liquidating credit union how to make a claim upon the liquidating agent and that if a claim is not made upon the liquidating agent within thirty days of the last date of publication the creditor's claim shall be barred. The liquidating agent shall provide personal notice of liquidation to the creditors of record informing them that if they fail to make a claim upon the liquidating agent within thirty days of the service of the notice, the creditor's claim shall be barred. If a creditor fails to make a claim upon the liquidating agent within the times required to be specified in the notices of liquidation the creditor's claim shall be barred. All contingent liabilities of the liquidated credit union shall be discharged upon the supervisor's order to liquidate the credit union. The liquidating agent shall, upon completion, certify to the supervisor that the distribution or pooling of assets of the credit union is complete. [1984 c 31 § 70.]

31.12.695 Mergers. (1) For purposes of this section the merging credit union is the credit union whose charter ceases to exist upon merging with the continuing credit union. The continuing credit union is the credit union whose charter continues upon merging with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the supervisor and in accordance with requirements the supervisor may prescribe. The merger shall be approved by two-thirds majority vote of the board of each credit union and two-thirds majority vote of the members of the merging credit union present at a special membership meeting called by the merging credit union board. The requirement of approval by the members of the merging credit union may be waived if in the supervisor's opinion the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if

their use is deemed appropriate. The debts and obligations of the merging credit union that are known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger shall inform creditors of the merging credit union how to make a claim on the continuing credit union and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication creditors' claims that are not known by the continuing credit union may be barred. Unless a claim is filed as requested by the notice, or unless the debt or obligation is known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger the charter of the merging credit union ceases to exist. [1984 c 31 § 71.]

31.12.705 Conversion of state to federal credit union.

(1) A credit union chartered under the laws of this state may convert itself into a federal credit union chartered under the laws of the United States as authorized by the federal credit union act. The conversion shall be approved by two-thirds majority vote of the members present at any regular or special membership meeting called for that purpose by the board. The meeting shall be held within thirty days of being called and the secretary shall notify the members and the supervisor of the meeting and its purpose as provided by the bylaws at least twenty days prior to the meeting.

(2) If the conversion is approved by the members a copy of the resolution certified by the board shall be filed with the supervisor within ten days of approval. The board may effect the conversion from a state-chartered credit union to a federal-chartered credit union upon terms agreed by the board and the proper federal authorities as provided by federal laws, rules, and regulations.

(3) A certified copy of the federal credit union charter or authorization issued to the credit union by the proper federal authority shall be filed in the supervisor's office and thereupon the state-chartered credit union ceases to exist except for the purpose of winding up its affairs and prosecuting or defending any litigation by or against the state-chartered credit union. For all other purposes the credit union is converted into a federal-chartered credit union and the state-chartered credit union may execute, acknowledge, and deliver to the successor federal credit union the instruments of transfer, conveyance, and assignment that are necessary or desirable to complete the conversion, and the property, tangible or intangible, and all rights, titles, and interests that are agreed to by the board and the proper federal authorities.

(4) Procedures, similar to those contained in subsections (1) through (3) of this section, prescribed by the

supervisor shall be followed when a credit union chartered under the laws of this state merges with or converts to a credit union chartered under the laws of another state. [1984 c 31 § 72.]

31.12.715 Conversion of federal to state credit union.

(1) A federal credit union located and conducting business in this state which becomes inoperative because of a change in the laws under which it is chartered or which is authorized to dissolve or convert to a state-chartered credit union in accordance with federal law may convert into a state-chartered credit union.

(2) The board of the federal credit union shall file with the supervisor proposed articles of incorporation and proposed bylaws, as provided by this chapter for organizing a new state-chartered credit union. If approved by the supervisor the federal-chartered credit union shall become a state-chartered credit union under the laws of this state and the assets and liabilities of the credit union vest in and become the property of the successor state-chartered credit union subject to all existing liabilities against the federal-chartered credit union. Shareholders and members of the federal credit union may become shareholders and members of the successor state-chartered credit union.

(3) Procedures, similar to those contained in subsections (1) and (2) of this section, prescribed by the supervisor shall be followed when a credit union chartered under the laws of another state wishes to merge with or convert to a credit union chartered under the laws of this state. [1984 c 31 § 73.]

31.12.720 Satellite facilities. See chapter 30.43 RCW.

31.12.725 Liquidation—Disposition of unclaimed funds. (1) At a meeting specially called for the purpose of liquidation, upon the recommendation of at least two-thirds of the total members of the board of a credit union, the members of a credit union may by a two-thirds vote of the members present elect to liquidate the credit union.

(2) Upon a vote to liquidate under subsection (1) of this section, a committee of three shall be elected to liquidate the assets of the credit union. The committee shall act under the direction of the supervisor and may be reasonably compensated by the board of the credit union. Each share of the credit union shall be entitled to its proportionate part of the assets in liquidation after all deposits and debts have been paid. The assets of the liquidating credit union shall not be subject to contingent liabilities. Upon distribution of the assets, the credit union shall cease to exist except for the purpose of discharging existing liabilities and obligations.

(3) Funds representing unclaimed dividends in liquidation and remaining in the hands of the liquidating committee for six months after the date of the final dividend shall be deposited, together with all the books and papers of the credit union, with the supervisor. The supervisor may one year after receipt destroy such records, books, and papers as, in the supervisor's judgment, are

obsolete or unnecessary for future reference. The funds may be deposited in one or more trust companies, mutual savings banks, savings and loan associations, or national or state banks to the credit of the supervisor in trust for the members of the liquidating credit union entitled to the funds. The supervisor may pay to a person entitled to it that person's portion of the funds upon the receipt of satisfactory evidence that the person is entitled to a portion of the funds. In case of doubt or of conflicting claims, the supervisor may require an order of the superior court of the county in which the credit union was located authorizing and directing the payment of the funds. The supervisor may apply the interest earned by the funds toward defraying the expenses incurred in the holding and paying of the funds. Five years after the receipt of the funds, the funds still remaining with the supervisor shall be escheated to the state. [1984 c 31 § 74.]

Uniform unclaimed property act: Chapter 63.29 RCW.

31.12.735 Taxation of credit unions. Neither a credit union nor its members may be taxed upon its shares and deposits as property. A credit union shall be taxable upon its real property and tangible personal property, and every credit union shall be termed a mutual institution for savings and neither it nor its property may be taxable under any law which exempts savings banks or institutions for savings from taxation. For all purposes of taxation, the assets represented by the regular reserve and other reserves, other than reserves for expenses and losses of a credit union, shall be deemed its only permanent capital, and in computing any tax, whether it be property, income, or excise, appropriate adjustment shall be made to give effect to the mutual nature of such credit union. [1984 c 31 § 75.]

31.12.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.901 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

31.12.902 Short title. This chapter may be known and cited as the "Washington State Credit Union Act." [1984 c 31 § 76.]

31.12.903 Application of chapter to credit unions operating on July 1, 1984. Credit unions organized and operating under the laws of this state as of July 1, 1984, may continue to operate after July 1, 1984, and need not comply with the requirements of organization under RCW 31.12.055 through 31.12.085. The activities of such credit unions conducted after July 1, 1984, shall be governed by the provisions of this chapter. [1984 c 31 § 77.]

31.12.904 Severability—1984 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. [1984 c 31 § 80.]

31.12.905 Effective date—1984 c 31. This act shall take effect on July 1, 1984. The supervisor of savings and loans may immediately take such steps as are necessary to ensure that this act is implemented on its effective date. [1984 c 31 § 81.]

**Chapter 31.13
CENTRAL CREDIT UNIONS**

Sections
31.13.010 Definitions.

31.13.010 Definitions. The terms used in this chapter shall have the following meanings unless the context in which they are used clearly indicates otherwise.

(1) "Members" shall mean any organization which meets the requirements of chapter 31.12 RCW.

(2) "Member credit union" shall mean any credit union which has been elected to membership and subscribed for at least one share in the central credit union and paid the initial installment thereon.

(3) "Credit union" shall mean a corporation organized under chapter 31.12 RCW or chartered to do business as a credit union by the administrator of the national credit union administration or the successor or successors of him.

(4) "Funds" shall mean deposits and shares of the central credit union members.

(5) For the purpose of establishing required reserves all assets except the following are "risk assets":

(a) Cash on hand;

(b) Deposits and shares in banks, trust companies, savings and loan associations, mutual savings banks or credit unions;

(c) Assets which are insured or guaranteed by, or due from, the federal government or any agency or instrumentalities thereof. [1984 c 31 § 79; 1977 ex.s. c 207 § 5.]

Severability—**Effective date**—1984 c 31: See RCW 31.12.904 and 31.12.905.

**Title 34
ADMINISTRATIVE LAW**

Chapters

34.04 Administrative Procedure Act.

34.12 Office of administrative hearings.

**Chapter 34.04
ADMINISTRATIVE PROCEDURE ACT**

Sections
34.04.150 Exclusions from chapter or parts of chapter.

34.04.150 Exclusions from chapter or parts of chapter. Except as provided under RCW 34.04.290, this chapter shall not apply to the state militia, or the board

of prison terms and paroles, or any institution of higher education as defined in RCW 28B.19.020. The provisions of RCW 34.04.090 through 34.04.130 shall not apply to the board of industrial insurance appeals or the board of tax appeals unless an election is made pursuant to RCW 82.03.140 or 82.03.190. The provisions of RCW 34.04.090 through 34.04.130 and the provisions of RCW 34.04.170 shall not apply to the denial, suspension, or revocation of a driver's license by the department of licensing. To the extent they are inconsistent with RCW 80.50.140, the provisions of RCW 34.04.130, 34.04.133, and 34.04.140 shall not apply to review of decisions made under RCW 80.50.100. To the extent they are inconsistent with any provisions of chapter 43-.43 RCW, the provisions of this chapter shall not apply to such provisions. All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act. [1984 c 141 § 8; 1982 c 221 § 6; 1981 c 64 § 2; 1979 c 158 § 90; 1971 ex.s. c 57 § 17; 1971 c 21 § 1; 1967 ex.s. c 71 § 1; 1967 c 237 § 7; 1963 c 237 § 1; 1959 c 234 § 15.]

Effective dates—**Severability**—1971 ex.s. c 57: See notes following RCW 28B.19.010.

**Chapter 34.12
OFFICE OF ADMINISTRATIVE HEARINGS**

Sections
34.12.035 Administrative law judge for state patrol disciplinary hearings.
34.12.060 Initial decision or proposal for decision—Findings of fact and conclusions of law—Inapplicability to state patrol disciplinary hearings.

34.12.035 Administrative law judge for state patrol disciplinary hearings. The chief administrative law judge shall designate an administrative law judge to serve, as the need arises, as presiding officer in state patrol disciplinary hearings conducted under RCW 43.43.090. [1984 c 141 § 6.]

34.12.060 Initial decision or proposal for decision—Findings of fact and conclusions of law—Inapplicability to state patrol disciplinary hearings. When an administrative law judge presides at a hearing under this chapter and a majority of the officials of the agency who are to render the final decision have not heard substantially all of the oral testimony and read all exhibits submitted by any party, it shall be the duty of such judge, or in the event of his unavailability or incapacity, of another judge appointed by the chief administrative law judge, to issue an initial decision or proposal for decision including findings of fact and conclusions of law in accordance with RCW 34.04.110. However, this section does not apply to a state patrol disciplinary hearing conducted under RCW 43.43.090. [1984 c 141 § 7; 1982 c 189 § 2; 1981 c 67 § 6.]

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective dates—**Severability**—1981 c 67: See notes following RCW 34.12.010.

Title 35 CITIES AND TOWNS

Chapters

- 35.10 Consolidation and annexation of cities and towns.
- 35.20 Municipal courts—Cities over four hundred thousand.
- 35.21 Miscellaneous provisions affecting all cities and towns.
- 35.22 First class cities.
- 35.23 Second class cities.
- 35.24 Third class cities.
- 35.27 Towns.
- 35.30 Unclassified cities.
- 35.37 Fiscal—Cities under 20,000 and cities other than first class—Bonds.
- 35.38 Fiscal—Depositaries.
- 35.40 Fiscal—Validation and funding of debts.
- 35.43 Local improvements—Authority—Initiation of proceedings.
- 35.45 Local improvements—Bonds and warrants.
- 35.58 Metropolitan municipal corporations.
- 35.59 Multi-purpose community centers.
- 35.60 World fairs or expositions—Participation by municipalities.
- 35.61 Metropolitan park districts.
- 35.63 Planning commissions.
- 35.67 Sewerage systems—Refuse collection and disposal.
- 35.76 Streets—Budget and accounting.
- 35.77 Streets—Planning, establishment, construction, and maintenance.
- 35.78 Streets—Classification and design standards.
- 35.80 Unfit dwellings, buildings and structures.
- 35.92 Municipal utilities.

Chapter 35.10

CONSOLIDATION AND ANNEXATION OF CITIES AND TOWNS

Sections

- 35.10.211 Petition—Joint resolution—Contents—Proposition—Submission to electors—Consolidation of two noncharter code cities and one first class city.

35.10.211 Petition—Joint resolution—Contents—Proposition—Submission to electors—Consolidation of two noncharter code cities and one first class city. (1) The legislative body of either of such contiguous corporations, upon receiving such petition signed by the qualified electors of either of such contiguous corporations equal in number to at least one-fifth of the votes cast at the last municipal general election held in such corporation requesting that a proposition with respect to the consolidation of two or more contiguous corporations be submitted to the voters, shall, within ninety days after receiving it, or the legislative bodies of any contiguous municipal corporations meeting in joint session upon their own initiative by joint resolution,

cause to be submitted to the electors of each of such corporations, at a special election to be held for that purpose, the proposition of whether such corporations shall be consolidated into one corporation. The petition or joint resolution may provide that the consolidation proposition may include (a) the form of government, (b) provision in regard to the assumption of indebtedness, (c) the name of the proposed corporation, and (d) whether a community municipal corporation shall be created for the smaller city or town as provided in RCW 35.14.010 through 35.14.060, or that any one or more of these items may be submitted to the voters as a separate proposition.

(2) Whenever it is proposed that a first class city and two noncharter code cities, all three with council-manager forms or plans of government, consolidate under this section, the consolidation shall proceed under chapter 35A.05 RCW. A petition, otherwise valid, that proposes such a consolidation under this section, shall validly authorize the effort to consolidate as provided in this subsection. [1984 c 8 § 2; 1969 ex.s. c 89 § 2.]

Consolidation of two noncharter code cities and one first class city: RCW 35A.05.170.

Chapter 35.20

MUNICIPAL COURTS—CITIES OVER FOUR HUNDRED THOUSAND

Sections

- 35.20.010 Municipal court established—Termination of court—Agreement covering costs of handling resulting criminal cases—Arbitration.
- 35.20.030 Jurisdiction—Maximum penalties for criminal violations—Review—Costs.
- 35.20.040 through 35.20.080 Repealed.
- 35.20.100 Departments of court—Change of venue—Presiding judge—Costs of election.
- 35.20.220 Powers and duties of chief clerk—City treasurer to remit portion of money received to state. (Effective July 1, 1985.)
- 35.20.900 Repealed.

35.20.010 Municipal court established—Termination of court—Agreement covering costs of handling resulting criminal cases—Arbitration. (1) There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled "The Municipal Court of ----- (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute.

(2) A municipality operating a municipal court under this section may terminate that court if the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution,

adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 201; 1975 c 33 § 4; 1965 c 7 § 35.20.010. Prior: 1955 c 290 § 1.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.
Severability—1975 c 33: See note following RCW 35.21.780.

35.20.030 Jurisdiction—Maximum penalties for criminal violations—Review—Costs. The municipal court shall have jurisdiction to try violations of all city ordinances and all other actions brought to enforce or recover license penalties or forfeitures declared or given by any such ordinances. It is empowered to forfeit cash bail or bail bonds and issue execution thereon, to hear and determine all causes, civil or criminal, arising under such ordinances, and to pronounce judgment in accordance therewith: *Provided*, That for a violation of the criminal provisions of an ordinance no greater punishment shall be imposed than a fine of five thousand dollars or imprisonment in the city jail not to exceed one year, or both such fine and imprisonment. All civil and criminal proceedings in municipal court, and judgments rendered therein, shall be subject to review in the superior court by writ of review or on appeal: *Provided*, That an appeal from the court's determination or order in a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5). Costs in civil and criminal cases may be taxed as provided in district courts. [1984 c 258 § 801; 1979 ex.s. c 136 § 23; 1965 c 7 § 35.20.030. Prior: 1955 c 290 § 3.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.
Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

35.20.040 through 35.20.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.20.100 Departments of court—Change of venue—Presiding judge—Costs of election. There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3: *Provided*, That when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city may create additional departments as they are needed. The departments shall be established in such places as may be provided by the legislative body of the city, and each department shall be presided over by a

municipal judge. The judges shall select, by majority vote, one of their number to act as presiding judge of the municipal court for a term of one year, and he shall be responsible for administration of the court and assignment of calendars to all departments. A change of venue from one department of the municipal court to another department shall be allowed in accordance with the provisions of RCW 3.66.090 in all civil and criminal proceedings. The city shall assume the costs of the elections of the municipal judges in accordance with the provisions of RCW 29.13.045. [1984 c 258 § 71; 1972 ex.s. c 32 § 1; 1969 ex.s. c 147 § 1; 1967 c 241 § 2; 1965 c 7 § 35.20.100. Prior: 1955 c 290 § 10.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.
Application—1967 c 241: See note following RCW 3.66.090.
Severability—1967 c 241: See RCW 3.74.932.

35.20.220 Powers and duties of chief clerk—City treasurer to remit portion of money received to state. (Effective July 1, 1985.) (1) The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all money received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor.

(2) The city treasurer shall remit monthly thirty-five percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law. [1984 c 258 § 319; 1969 ex.s. c 147 § 5; 1965 c 7 § 35.20.220. Prior: 1955 c 290 § 22.]

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.

35.20.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

Sections
35.21.170 Repealed.

- 35.21.209 Liability insurance and workers' compensation for offenders performing court-ordered community service.
- 35.21.260 Streets—Annual report to secretary of transportation.
- 35.21.270 Streets—Records of funds received and used for construction, repair, maintenance.
- 35.21.285 Repealed.
- 35.21.300 Utility services—Enforcement of lien—Limitations on termination of electricity for residential heating.
- 35.21.301 Report to legislature—Expiration of section—1984 c 251.
- 35.21.395 Historic preservation—Authorization to acquire property, borrow money, issue bonds, etc.
- 35.21.417 Hydroelectric reservoir extending across international boundary—Agreement with Province of British Columbia.
- 35.21.418 Hydroelectric reservoir extending across international boundary—Commission—Powers.
- 35.21.690 Authority to regulate auctioneers—Limitations.
- 35.21.755 Federal grants and programs—Public corporations, commissions or authorities—Exemption or immunity from taxation—In lieu excise tax.
- 35.21.775 Provision of fire protection services to state-owned buildings and equipment.
- 35.21.870 Electricity, telephone, natural gas, or steam energy business—Tax limited to six percent—Exception.

35.21.170 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.21.209 Liability insurance and workers' compensation for offenders performing court-ordered community service. The legislative authority of a city or town may purchase liability insurance in an amount it deems reasonable to protect the city or town, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of court-ordered community service, and may elect to treat offenders as employees and/or workers under Title 51 RCW. [1984 c 24 § 1.]

Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

35.21.260 Streets—Annual report to secretary of transportation. The governing authority of each city and town on or before March 31st of each year shall submit such records and reports regarding street operations in the city or town to the secretary of transportation on forms furnished by him as are necessary to enable him to compile an annual report thereon. [1984 c 7 § 19; 1977 c 75 § 29; 1965 c 7 § 35.21.260. Prior: 1943 c 82 § 12; 1937 c 187 § 64; Rem. Supp. 1943 § 6450–64.]

Severability—1984 c 7: See note following RCW 47.01.141.

35.21.270 Streets—Records of funds received and used for construction, repair, maintenance. The city engineer or the city clerk of each city or town shall maintain records of the receipt and expenditure of all moneys used for construction, repair, or maintenance of streets and arterial highways.

To assist in maintaining uniformity in such records, the division of municipal corporations, with the advice and assistance of the department of transportation, shall prescribe forms and types of records to be so maintained. [1984 c 7 § 20; 1965 c 7 § 35.21.270. Prior: 1949 c 164 § 5; Rem. Supp. 1949 § 9300–5.]

Severability—1984 c 7: See note following RCW 47.01.141.

35.21.285 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.21.300 Utility services—Enforcement of lien—Limitations on termination of electricity for residential heating. (1) The lien for charges for service by a city waterworks, or electric light or power plant may be enforced only by cutting off the service until the delinquent and unpaid charges are paid, except that until June 30, 1986, electricity for residential space heating may be terminated between November 15 and March 15 only as provided in subsection (2) of this section. In the event of a disputed account and tender by the owner of the premises of the amount he claims to be due before the service is cut off, the right to refuse service to any premises shall not accrue until suit has been entered by the city and judgment entered in the case.

(2) Until June 30, 1986:

(a) Electricity for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) Brings a statement from the department of social and health services or a grantee of the *planning and community affairs agency which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination [and] a description of the customer's duties in this subsection;

(ii) Assist the customer in fulfilling the requirements under this subsection;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan under this subsection moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection.

(3) All municipal utilities shall offer residential customers the option of a budget billing or equal payment plan. [1984 c 251 § 1; 1965 c 7 § 35.21.300. Prior: 1909 c 161 § 2; RRS § 9472.]

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

35.21.301 Report to legislature—Expiration of section—1984 c 251. Until 1986, cities and towns distributing electricity shall report annually to the legislature for utilities subject to its jurisdiction: (1) The extent to which chapter 251, Laws of 1984 benefits low income persons, and (2) the costs and benefits to other customers.

This section shall expire June 30, 1986. [1984 c 251 § 5.]

Reviser's note: Chapter 251, Laws of 1984 consists of the amendments to RCW 35.21.300 and 80.28.010 and the enactment of RCW 35.21.301, 54.16.285, 54.16.286, 54.16.290, and 80.28.011.

35.21.395 Historic preservation—Authorization to acquire property, borrow money, issue bonds, etc. Any city or town may acquire title to or any interest in real and personal property for the purpose of historic preservation and may restore, improve, maintain, manage, and lease the property for public or private use and may enter into contracts, borrow money, and issue bonds and other obligations for such purposes. This authorization shall not expand the eminent domain powers of cities or towns. [1984 c 203 § 3.]

Severability—1984 c 203: See note following RCW 35.43.140.

35.21.417 Hydroelectric reservoir extending across international boundary—Agreement with Province of British Columbia. To carry out a treaty between the United States of America and Canada, a city that maintains hydroelectric facilities with a reservoir which extends across the international boundary, may enter into an agreement with the Province of British Columbia for enhancing recreational opportunities and protecting environmental resources of the watershed of the river or rivers which forms the reservoir. The agreement may provide for establishment of and payments into an environmental endowment fund and establishment of an administering commission to implement the purpose of the treaty and the agreement. [1984 c 1 § 1.]

35.21.418 Hydroelectric reservoir extending across international boundary—Commission—Powers. A commission, established by an agreement between a

Washington municipality and the Province of British Columbia to carry out a treaty between the United States of America and Canada as authorized in RCW 35.21.417, shall be public and shall have all powers and capacity necessary and appropriate for the purposes of performing its functions under the agreement, including, but not limited to, the following powers and capacity: To acquire and dispose of real property other than by condemnation; to enter into contracts; to sue and be sued in either Canada or the United States; to establish an endowment fund in either or both the United States and Canada and to invest the endowment fund in either or both countries; to solicit, accept, and use donations, grants, bequests, or devises intended for furthering the functions of the endowment; to adopt such rules or procedures as it deems desirable for performing its functions; to engage advisors and consultants; to establish committees and subcommittees; to adopt rules for its governance; to enter into agreements with public and private entities; and to engage in activities necessary and appropriate for implementing the agreement and the treaty.

The endowment fund and commission may not be subject to state or local taxation. A commission, so established, may not be subject to statutes and laws governing Washington cities and municipalities in the conduct of its internal affairs: *Provided*, That all commission members appointed by the municipality shall comply with chapter 42.22 RCW, and: *Provided further*, That all commission meetings held within the state of Washington shall be held in compliance with chapter 42.30 RCW. All obligations or liabilities incurred by the commission shall be satisfied exclusively from its own assets and insurance. [1984 c 1 § 2.]

35.21.690 Authority to regulate auctioneers—Limitations. A city or town shall not license auctioneers that are licensed by the state under chapter 18.11 RCW other than by requiring an auctioneer to obtain a general city or town business license and by subjecting an auctioneer to a city or town business and occupation tax. A city or town shall not require auctioneers that are licensed by the state under chapter 18.11 RCW to obtain bonding in addition to the bonding required by the state. [1984 c 189 § 2.]

35.21.755 Federal grants and programs—Public corporations, commissions or authorities—Exemption or immunity from taxation—In lieu excise tax. A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: *Provided*, That, except for any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public

corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.725 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: *Provided further*, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976: *And provided further*, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976. [1984 c 116 § 1; 1979 ex.s. c 196 § 9; 1977 ex.s. c 35 § 1; 1974 ex.s. c 37 § 7.]

Effective date—1979 ex.s. c 196: See note following RCW 82.04.240.

Effective date—1977 ex.s. c 35: "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 35 § 2.]

35.21.775 Provision of fire protection services to state-owned buildings and equipment. Whenever a city or town has located within its territorial limits buildings or equipment, except those leased to a nontax-exempt person or organization, owned by the state or an agency or institution of the state, the state or agency or institution shall contract with the city or town for fire protection services necessary for the protection and safety of personnel and property pursuant to chapter 39.34 RCW, as now or hereafter amended. Nothing in this section shall be construed to require the state, or any state agency or institution, to contract for services which are performed by the staff and equipment of such an entity or by a fire protection district pursuant to RCW 52.30.020. The *director of planning and community affairs shall present in the budget submitted to the governor for the 1983-85 biennium, and each biennium thereafter, an amount sufficient to fund any fire protection service contracts negotiated under the provisions of this section. [1984 c 230 § 82; 1983 c 146 § 1; 1979 ex.s. c 102 § 1.]

*Reviser's note: "Director of planning and community affairs" means "director of community development." See RCW 43.63A.045.

35.21.870 Electricity, telephone, natural gas, or steam energy business—Tax limited to six percent—

Exception. (1) No city or town may impose a tax on the privilege of conducting an electrical energy, natural gas, steam energy, or telephone business at a rate which exceeds six percent unless the rate is first approved by a majority of the voters of the city or town voting on such a proposition.

(2) If a city or town is imposing a rate of tax under subsection (1) of this section in excess of six percent on April 20, 1982, the city or town shall decrease the rate to a rate of six percent or less by reducing the rate each year on or before November 1st by ordinances to be effective on January 1st of the succeeding year, by an amount equal to one-tenth the difference between the tax rate on April 20, 1982, and six percent.

Nothing in this subsection prohibits a city or town from reducing its rates by amounts greater than the amounts required in this subsection.

Voter approved rate increases under subsection (1) of this section shall not be included in the computations under this subsection. [1984 c 225 § 6; 1983 c 99 § 5; 1982 1st ex.s. c 49 § 4.]

Rules—1984 c 225: See note following RCW 82.14.210.

Severability—1983 c 99: See note following RCW 82.14.200.

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

Chapter 35.22 FIRST CLASS CITIES

Sections

35.22.280	Specific powers enumerated.
35.22.420	Repealed.
35.22.425	Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.
35.22.430	through 35.22.560 Repealed.

35.22.280 Specific powers enumerated. Any city of the first class shall have power:

(1) To provide for general and special elections, for questions to be voted upon, and for the election of officers;

(2) To provide for levying and collecting taxes on real and personal property for its corporate uses and purposes, and to provide for the payment of the debts and expenses of the corporation;

(3) To control the finances and property of the corporation, and to acquire, by purchase or otherwise, such lands and other property as may be necessary for any part of the corporate uses provided for by its charter, and to dispose of any such property as the interests of the corporation may, from time to time, require;

(4) To borrow money for corporate purposes on the credit of the corporation, and to issue negotiable bonds therefor, on such conditions and in such manner as shall be prescribed in its charter; but no city shall, in any manner or for any purpose, become indebted to an amount in the aggregate to exceed the limitation of indebtedness prescribed by chapter 39.36 RCW as now or hereafter amended;

(5) To issue bonds in place of or to supply means to meet maturing bonds or other indebtedness, or for the consolidation or funding of the same;

(6) To purchase or appropriate private property within or without its corporate limits, for its corporate uses, upon making just compensation to the owners thereof, and to institute and maintain such proceedings as may be authorized by the general laws of the state for the appropriation of private property for public use;

(7) To lay out, establish, open, alter, widen, extend, grade, pave, plank, establish grades, or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks, and other public grounds, and to regulate and control the use thereof, and to vacate the same, and to authorize or prohibit the use of electricity at, in, or upon any of said streets, or for other purposes, and to prescribe the terms and conditions upon which the same may be so used, and to regulate the use thereof;

(8) To change the grade of any street, highway, or alley within its corporate limits, and to provide for the payment of damages to any abutting owner or owners who shall have built or made other improvements upon such street, highway, or alley at any point opposite to the point where such change shall be made with reference to the grade of such street, highway, or alley as the same existed prior to such change;

(9) To authorize or prohibit the locating and constructing of any railroad or street railroad in any street, alley, or public place in such city, and to prescribe the terms and conditions upon which any such railroad or street railroad shall be located or constructed; to provide for the alteration, change of grade, or removal thereof; to regulate the moving and operation of railroad and street railroad trains, cars, and locomotives within the corporate limits of said city; and to provide by ordinance for the protection of all persons and property against injury in the use of such railroads or street railroads;

(10) To provide for making local improvements, and to levy and collect special assessments on property benefited thereby, and for paying for the same or any portion thereof;

(11) To acquire, by purchase or otherwise, lands for public parks within or without the limits of such city, and to improve the same. When the language of any instrument by which any property is so acquired limits the use of said property to park purposes and contains a reservation of interest in favor of the grantor or any other person, and where it is found that the property so acquired is not needed for park purposes and that an exchange thereof for other property to be dedicated for park purposes is in the public interest, the city may, with the consent of the grantor or such other person, his heirs, successors, or assigns, exchange such property for other property to be dedicated for park purposes, and may make, execute, and deliver proper conveyances to effect the exchange. In any case where, owing to death or lapse of time, there is neither donor, heir, successor, or assignee to give consent, this consent may be executed by the city and filed for record with an affidavit setting forth all efforts made to locate people entitled to give such consent together with the facts which establish that

no consent by such persons is attainable. Title to property so conveyed by the city shall vest in the grantee free and clear of any trust in favor of the public arising out of any prior dedication for park purposes, but the right of the public shall be transferred and preserved with like force and effect to the property received by the city in such exchange;

(12) To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof;

(13) To determine what work shall be done or improvements made at the expense, in whole or in part, of the owners of the adjoining contiguous, or proximate property, or others specially benefited thereby; and to provide for the manner of making and collecting assessments therefor;

(14) To provide for erecting, purchasing, or otherwise acquiring waterworks, within or without the corporate limits of said city, to supply said city and its inhabitants with water, or authorize the construction of same by others when deemed for the best interests of such city and its inhabitants, and to regulate and control the use and price of the water so supplied;

(15) To provide for lighting the streets and all public places, and for furnishing the inhabitants thereof with gas or other lights, and to erect, or otherwise acquire, and to maintain the same, or to authorize the erection and maintenance of such works as may be necessary and convenient therefor, and to regulate and control the use thereof;

(16) To establish and regulate markets, and to provide for the weighing, measuring, and inspection of all articles of food and drink offered for sale thereat, or at any other place within its limits, by proper penalties, and to enforce the keeping of proper legal weights and measures by all vendors in such city, and to provide for the inspection thereof;

(17) To erect and establish hospitals and pesthouses, and to control and regulate the same;

(18) To provide for establishing and maintaining reform schools for juvenile offenders;

(19) To provide for the establishment and maintenance of public libraries, and to appropriate, annually, such percent of all moneys collected for fines, penalties, and licenses as shall be prescribed by its charter, for the support of a city library, which shall, under such regulations as shall be prescribed by ordinance, be open for use by the public;

(20) To regulate the burial of the dead, and to establish and regulate cemeteries within or without the corporate limits, and to acquire land therefor by purchase or otherwise; to cause cemeteries to be removed beyond the limits of the corporation, and to prohibit their establishment within two miles of the boundaries thereof;

(21) To direct the location and construction of all buildings in which any trade or occupation offensive to the senses or deleterious to public health or safety shall be carried on, and to regulate the management thereof; and to prohibit the erection or maintenance of such buildings or structures, or the carrying on of such trade or occupation within the limits of such corporation, or

within the distance of two miles beyond the boundaries thereof;

(22) To provide for the prevention and extinguishment of fires and to regulate or prohibit the transportation, keeping, or storage of all combustible or explosive materials within its corporate limits, and to regulate and restrain the use of fireworks;

(23) To establish fire limits and to make all such regulations for the erection and maintenance of buildings or other structures within its corporate limits as the safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in safe condition;

(24) To regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained;

(25) To deepen, widen, dock, cover, wall, alter, or change the channels of waterways and courses, and to provide for the construction and maintenance of all such works as may be required for the accommodation of commerce, including canals, slips, public landing places, wharves, docks, and levees, and to control and regulate the use thereof;

(26) To control, regulate, or prohibit the anchorage, moorage, and landing of all watercrafts and their cargoes within the jurisdiction of the corporation;

(27) To fix the rates of wharfage and dockage, and to provide for the collection thereof, and to provide for the imposition and collection of such harbor fees as may be consistent with the laws of the United States;

(28) To license, regulate, control, or restrain wharf boats, tugs, and other boats used about the harbor or within such jurisdiction;

(29) To require the owners of public halls or other buildings to provide suitable means of exit; to provide for the prevention and abatement of nuisances, for the cleaning and purification of watercourses and canals, for the drainage and filling up of ponds on private property within its limits, when the same shall be offensive to the senses or dangerous to health; to regulate and control, and to prevent and punish, the defilement or pollution of all streams running through or into its corporate limits, and for the distance of five miles beyond its corporate limits, and on any stream or lake from which the water supply of said city is taken, for a distance of five miles beyond its source of supply; to provide for the cleaning of areas, vaults, and other places within its corporate limits which may be so kept as to become offensive to the senses or dangerous to health, and to make all such quarantine or other regulations as may be necessary for the preservation of the public health, and to remove all persons afflicted with any infectious or contagious disease to some suitable place to be provided for that purpose;

(30) To declare what shall be a nuisance, and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist;

(31) To regulate the selling or giving away of intoxicating, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state: *Provided*, That no license shall be granted to any person or persons

who shall not first comply with the general laws of the state in force at the time the same is granted;

(32) To grant licenses for any lawful purpose, and to fix by ordinance the amount to be paid therefor, and to provide for revoking the same: *Provided*, That no license shall be granted to continue for longer than one year from the date thereof;

(33) To regulate the carrying on within its corporate limits of all occupations which are of such a nature as to affect the public health or the good order of said city, or to disturb the public peace, and which are not prohibited by law, and to provide for the punishment of all persons violating such regulations, and of all persons who knowingly permit the same to be violated in any building or upon any premises owned or controlled by them;

(34) To restrain and provide for the punishment of vagrants, mendicants, prostitutes, and other disorderly persons;

(35) To provide for the punishment of all disorderly conduct, and of all practices dangerous to public health or safety, and to make all regulations necessary for the preservation of public morality, health, peace, and good order within its limits, and to provide for the arrest, trial, and punishment of all persons charged with violating any of the ordinances of said city. The punishment shall not exceed a fine of five thousand dollars or imprisonment in the city jail for one year, or both such fine and imprisonment;

(36) To project or extend its streets over and across any tidelands within its corporate limits, and along or across the harbor areas of such city, in such manner as will best promote the interests of commerce;

(37) To provide in their respective charters for a method to propose and adopt amendments thereto. [1984 c 258 § 802; 1977 ex.s. c 316 § 20; 1971 ex.s. c 16 § 1; 1965 ex.s. c 116 § 2; 1965 c 7 § 35.22.280. Prior: 1890 p 218 § 5; RRS § 8966.]

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

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

35.22.420 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.22.425 Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A city of the first class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of

the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 204.]

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

35.22.430 through 35.22.560 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.23 SECOND CLASS CITIES

Sections

35.23.440	Specific powers enumerated.
35.23.590	Repealed.
35.23.595	Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.
35.23.600	through 35.23.670 Repealed.

35.23.440 Specific powers enumerated. The city council of each second class city shall have power and authority:

(1) Ordinances: To make and pass all ordinances, orders, and resolutions not repugnant to the Constitution of the United States or the state of Washington, or the provisions of this title, necessary for the municipal government and management of the affairs of the city, for the execution of the powers vested in said body corporate, and for the carrying into effect of the provisions of this title.

(2) License of shows: To fix and collect a license tax, for the purposes of revenue and regulation, on theatres, melodeons, balls, concerts, dances, theatrical, circus, or other performances, and all performances where an admission fee is charged, or which may be held in any house or place where wines or liquors are sold to the participators; also all shows, billiard tables, pool tables, bowling alleys, exhibitions, or amusements.

(3) Hotels, etc., licenses: To fix and collect a license tax for the purposes of revenue and regulation on and to regulate all taverns, hotels, restaurants, banks, brokers, manufactories, livery stables, express companies and persons engaged in transmitting letters or packages, railroad, stage, and steamboat companies or owners, whose principal place of business is in such city, or who have an agency therein.

(4) Peddlers', etc., licenses: To license, for the purposes of revenue and regulation, tax, prohibit, suppress, and regulate all raffles, hawkers, peddlers, pawnbrokers, refreshment or coffee stands, booths, or sheds; and to regulate as authorized by state law all tipping houses, dram shops, saloons, bars, and barrooms.

(5) Dance houses: To prohibit or suppress, or to license and regulate all dance houses, fandango houses, or any exhibition or show of any animal or animals.

(6) License vehicles: To license for the purposes of revenue and regulation, and to tax hackney coaches, cabs, omnibuses, drays, market wagons, and all other vehicles used for hire, and to regulate their stands, and to fix the rates to be charged for the transportation of persons, baggage, and property.

(7) Hotel runners: To license or suppress runners for steamboats, taverns, or hotels.

(8) License generally: To fix and collect a license tax for the purposes of revenue and regulation, upon all occupations and trades, and all and every kind of business authorized by law not heretofore specified: *Provided*, That on any business, trade, or calling not provided by law to be licensed for state and county purposes, the amount of license shall be fixed at the discretion of the city council, as they may deem the interests and good order of the city may require.

(9) Riots: To prevent and restrain any riot or riotous assemblages, disturbance of the peace, or disorderly conduct in any place, house, or street in the city.

(10) Nuisances: To declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, or committing or maintaining the same, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

(11) Stock pound: To establish, maintain, and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed and collected of the owners of any animals impounded, and from no other source; to prevent and regulate the running at large of any and all domestic animals within the city limits or any parts thereof, and to regulate or prevent the keeping of such animals within any part of the city.

(12) Control of certain trades: To control and regulate slaughterhouses, washhouses, laundries, tanneries, forges, and offensive trades, and to provide for their exclusion or removal from the city limits, or from any part thereof.

(13) Street cleaning: To provide, by regulation, for the prevention and summary removal of all filth and garbage in streets, sloughs, alleys, back yards, or public grounds of such city, or elsewhere therein.

(14) Gambling, etc.: To prohibit and suppress all gaming and all gambling or disorderly houses, and houses of ill fame, and all immoral and indecent amusements, exhibitions, and shows.

(15) Markets: To establish and regulate markets and market places.

(16) Speed of railroad cars: To fix and regulate the speed at which any railroad cars, streetcars, automobiles, or other vehicles may run within the city limits, or any portion thereof.

(17) City commons: To provide for and regulate the commons of the city.

(18) Fast driving: To regulate or prohibit fast driving or riding in any portion of the city.

(19) Combustibles: To regulate or prohibit the loading or storage of gunpowder and combustible or explosive materials in the city, or transporting the same through its streets or over its waters.

(20) Property: To have, purchase, hold, use, and enjoy property of every name or kind whatsoever, and to sell, lease, transfer, mortgage, convey, control, or improve the same; to build, erect, or construct houses, buildings, or structures of any kind needful for the use or purposes of such city.

(21) Fire department: To establish, continue, regulate, and maintain a fire department for such city, to change or reorganize the same, and to disband any company or companies of the said department; also, to discontinue and disband said fire department, and to create, organize, establish, and maintain a paid fire department for such city.

(22) Water supply: To adopt, enter into, and carry out means for securing a supply of water for the use of such city or its inhabitants, or for irrigation purposes therein.

(23) Overflow of water: To prevent the overflow of the city or to secure its drainage, and to assess the cost thereof to the property benefited.

(24) House numbers: To provide for the numbering of houses.

(25) Health board: To establish a board of health; to prevent the introduction and spread of disease; to establish a city infirmary and to provide for the indigent sick; and to provide and enforce regulations for the protection of health, cleanliness, peace, and good order of the city; to establish and maintain hospitals within or without the city limits; to control and regulate interments and to prohibit them within the city limits.

(26) Harbors and wharves: To build, alter, improve, keep in repair, and control the waterfront; to erect, regulate, and repair wharves, and to fix the rate of wharfage and transit of wharf, and levy dues upon vessels and commodities; and to provide for the regulation of berths, landing, stationing, and removing steamboats, sail vessels, rafts, barges, and all other watercraft; to fix the rate of speed at which steamboats and other steam watercraft may run along the waterfront of the city; to build bridges so as not to interfere with navigation; to provide for the removal of obstructions to the navigation of any channel or watercourses or channels.

(27) License of steamers: To license steamers, boats, and vessels used in any watercourse in the city, and to fix and collect a license tax thereon.

(28) Ferry licenses: To license ferries and toll bridges under the law regulating the granting of such license.

(29) Penalty for violation of ordinances: To determine and impose fines for forfeitures and penalties that shall be incurred for the breach or violation of any city ordinance, notwithstanding that the act constituting a violation of any such ordinance may also be punishable under the state laws, and also for a violation of the provisions of this chapter, when no penalty is affixed thereto or provided by law, and to appropriate all such fines, penalties, and forfeitures for the benefit of the city; but no

penalty to be enforced shall exceed for any offense the amount of five thousand dollars or imprisonment for one year, or both; and every violation of any lawful order, regulation, or ordinance of the city council of such city is hereby declared a misdemeanor or public offense, and all prosecutions for the same may be in the name of the state of Washington: *Provided*, That violation of an order, regulation, or ordinance relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of an order, regulation, or ordinance equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

(30) Police department: To create and establish a city police; to prescribe their duties and their compensation; and to provide for the regulation and government of the same.

(31) Elections: To provide for conducting elections and establishing election precincts when necessary, to be as near as may be in conformity with the state law.

(32) Examine official accounts: To examine, either in open session or by committee, the accounts or doings of all officers or other persons having the care, management, or disposition of moneys, property, or business of the city.

(33) Contracts: To make all appropriations, contracts, or agreements for the use or benefit of the city and in the city's name.

(34) Streets and sidewalks: To provide by ordinance for the opening, laying out, altering, extending, repairing, grading, paving, planking, graveling, macadamizing, or otherwise improving of public streets, avenues, and other public ways, or any portion of any thereof; and for the construction, regulation, and repair of sidewalks and other street improvements, all at the expense of the property to be benefited thereby, without any recourse, in any event, upon the city for any portion of the expense of such work, or any delinquency of the property holders or owners, and to provide for the forced sale thereof for such purposes; to establish a uniform grade for streets, avenues, sidewalks, and squares, and to enforce the observance thereof.

(35) Waterways: To clear, cleanse, alter, straighten, widen, fill up, or close any waterway, drain, or sewer, or any watercourse in such city when not declared by law to be navigable, and to assess the expense thereof, in whole or in part, to the property specially benefited.

(36) Sewerage: To adopt, provide for, establish, and maintain a general system of sewerage, draining, or both, and the regulation thereof; to provide funds by local assessments on the property benefited for the purpose aforesaid and to determine the manner, terms, and place of connection with main or central lines of pipes, sewers, or drains established, and compel compliance with and conformity to such general system of sewerage or drainage, or both, and the regulations of said council thereto relating, by the infliction of suitable penalties and forfeitures against persons and property, or either, for non-conformity to, or failure to comply with the provisions of such system and regulations or either.

(37) Buildings and parks: To provide for all public buildings, public parks, or squares, necessary or proper for the use of the city.

(38) Franchises: To permit the use of the streets for railroad or other public service purposes.

(39) Payment of judgments: To order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenue, franchise, or rights, or interest, shall be attached, levied upon, or sold in or under any process whatsoever.

(40) Weighing of fuel: To regulate the sale of coal and wood in such city, and may appoint a measurer of wood and weigher of coal for the city, and define his duties, and may prescribe his term of office, and the fees he shall receive for his services: *Provided*, That such fees shall in all cases be paid by the parties requiring such service.

(41) Hospitals, etc.: To erect and establish hospitals and pesthouses and to control and regulate the same.

(42) Waterworks: To provide for the erection, purchase, or otherwise acquiring of waterworks within or without the corporate limits of the city to supply such city and its inhabitants with water, and to regulate and control the use and price of the water so supplied.

(43) City lights: To provide for lighting the streets and all public places of the city and for furnishing the inhabitants of the city with gas, electric, or other light, and for the ownership, purchase or acquisition, construction, or maintenance of such works as may be necessary or convenient therefor: *Provided*, That no purchase of any such water plant or light plant shall be made without first submitting the question of such purchase to the electors of the city.

(44) Parks: To acquire by purchase or otherwise land for public parks, within or without the limits of the city, and to improve the same.

(45) Bridges: To construct and keep in repair bridges, and to regulate the use thereof.

(46) Power of eminent domain: In the name of and for the use and benefit of the city, to exercise the right of eminent domain, and to condemn lands and property for the purposes of streets, alleys, parks, public grounds, waterworks, or for any other municipal purpose and to acquire by purchase or otherwise such lands and property as may be deemed necessary for any of the corporate uses provided for by this title, as the interests of the city may from time to time require.

(47) To provide for the assessment of taxes: To provide for the assessment, levying, and collecting of taxes on real and personal property for the corporate uses and purposes of the city and to provide for the payment of the debts and expenses of the corporation.

(48) Local improvements: To provide for making local improvements, and to levy and collect special assessments on the property benefited thereby and for paying the same or any portion thereof; to determine what work shall be done or improvements made, at the expense, in whole or in part, of the adjoining, contiguous, or proximate property, and to provide for the manner of making and collecting assessments therefor.

(49) Cemeteries: To regulate the burial of the dead and to establish and regulate cemeteries, within or without the corporate limits, and to acquire lands therefor by purchase or otherwise.

(50) Fire limits: To establish fire limits with proper regulations and to make all needful regulations for the erection and maintenance of buildings or other structures within the corporate limits as safety of persons or property may require, and to cause all such buildings and places as may from any cause be in a dangerous state to be put in a safe condition; to regulate the manner in which stone, brick, and other buildings, party walls, and partition fences shall be constructed and maintained.

(51) Safety and sanitary measures: To require the owners of public halls, theaters, hotels, and other buildings to provide suitable means of exit and proper fire escapes; to provide for the cleaning and purification of watercourses and canals and for the draining and filling up of ponds on private property within its limits when the same shall be offensive to the senses or dangerous to the health, and to charge the expense thereof to the property specially benefited, and to regulate and control and provide for the prevention and punishment of the defilement or pollution of all streams running in or through its corporate limits and a distance of five miles beyond its corporate limits, and of any stream or lake from which the water supply of the city is or may be taken and for a distance of five miles beyond its source of supply, and to make all quarantine and other regulations as may be necessary for the preservation of the public health and to remove all persons afflicted with any contagious disease to some suitable place to be provided for that purpose.

(52) To regulate liquor traffic: To regulate the selling or giving away of intoxicating, spirituous, malt, vinous, mixed, or fermented liquors as authorized by the general laws of the state.

(53) To establish streets on tidelands: To project or extend or establish streets over and across any tidelands within the limits of such city.

(54) To provide for the general welfare. [1984 c 258 § 803; 1984 c 189 § 5; 1979 ex.s. c 136 § 28; 1977 ex.s. c 316 § 21; 1965 ex.s. c 116 § 7; 1965 c 7 § 35.23.440. Prior: 1907 c 241 § 29; 1890 p 148 § 38; RRS § 9034.]

Reviser's note: This section was amended by 1984 c 189 § 5 and by 1984 c 258 § 803, 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).

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

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

35.23.590 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.23.595 Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A city of the

second class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 205.]

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

35.23.600 through 35.23.670 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 35.24
THIRD CLASS CITIES**

Sections	
35.24.290	Specific powers enumerated.
35.24.450	Repealed.
35.24.455	Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.
35.24.460	through 35.24.480 Repealed.

35.24.290 Specific powers enumerated. The city council of each third class city shall have power:

- (1) To pass ordinances not in conflict with the Constitution and laws of this state or of the United States;
- (2) To prevent and regulate the running at large of any or all domestic animals within the city limits or any part thereof and to cause the impounding and sale of any such animals;
- (3) To establish, build and repair bridges, to establish, lay out, alter, keep open, open, widen, vacate, improve and repair streets, sidewalks, alleys, squares and other public highways and places within the city, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish and reestablish the grades thereof; to grade, plank, pave, macadamize, gravel and curb the same, in whole or in part; to construct gutters, culverts, sidewalks and crosswalks therein or upon any part thereof; to cultivate and maintain parking strips therein, and generally to manage and control all such highways and places; to provide by local assessment for the leveling up and surfacing and oiling or otherwise

treating for the laying of dust, all streets within the city limits;

(4) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets and alleys or within two hundred feet thereof along which sewers shall have been constructed to make proper connections therewith and to use the same for proper purposes, and in case the owners of the property on such streets and alleys or within two hundred feet thereof fail to make such connections within the time fixed by such council, it may cause such connections to be made and assess against the property served thereby the costs and expenses thereof;

(5) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(6) To impose and collect an annual license on every dog within the limits of the city, to prohibit dogs running at large and to provide for the killing of all dogs not duly licensed found at large;

(7) To license, for the purposes of regulation and revenue, all and every kind of business authorized by law, and transacted and carried on in such city, and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof, to fix the rate of license tax upon the same, and to provide for the collection of the same by suit or otherwise;

(8) To improve rivers and streams flowing through such city, or adjoining the same; to widen, straighten and deepen the channel thereof, and remove obstructions therefrom; to improve the water-front of the city, and to construct and maintain embankments and other works to protect such city from overflow; to prevent the filling of the water of any bay, except such filling over tide or shorelands as may be provided for by order of the city council; to purify and prevent the pollution of streams of water, lakes or other sources of supply, and for this purpose shall have jurisdiction over all streams, lakes or other sources of supply, both within and without the city limits. Such city shall have power to provide by ordinance and to enforce such punishment or penalty as the city council may deem proper for the offense of polluting or in any manner obstructing or interfering with the water supply of such city or source thereof;

(9) To erect and maintain buildings for municipal purposes;

(10) To permit, under such restrictions as it may deem proper, and to grant franchises for, the laying of railroad tracks, and the running of cars propelled by electric, steam or other power thereon, and the laying of gas and water pipes and steam mains and conduits for underground wires, and to permit the construction of tunnels or subways in the public streets, and to construct and maintain and to permit the construction and maintenance of telegraph, telephone and electric lines therein;

(11) In its discretion to divide the city by ordinance, into a convenient number of wards, not exceeding six, to fix the boundaries thereof, and to change the same from time to time: *Provided*, That no change in the boundaries of any ward shall be made within sixty days next before the date of a general municipal election, nor

within twenty months after the wards have been established or altered. Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmen to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmen so designated shall be elected by the qualified electors resident in such ward, or by general vote of the whole city as may be designated in such ordinance. When additional territory is added to the city it may by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilman from the ward for which he was elected shall create a vacancy in such office;

(12) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance to fix the penalty by fine or imprisonment, or both, but no such fine shall exceed five thousand dollars nor the term of such imprisonment exceed the term of one year;

(13) To establish fire limits, with proper regulations;

(14) To establish and maintain a free public library;

(15) To establish and regulate public markets and market places;

(16) To punish the keepers and inmates and lessors of houses of ill fame, gamblers and keepers of gambling tables, patrons thereof or those found loitering about such houses and places;

(17) To make all such ordinances, bylaws, rules, regulations and resolutions, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the corporation and its trade, commerce and manufactures, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter, and to enact and enforce within the limits of such city all other local, police, sanitary and other regulations as do not conflict with general laws;

(18) To license steamers, boats and vessels used in any bay or other watercourse in the city and to fix and collect such license; to provide for the regulation of berths, landings, and stations, and for the removing of steamboats, sail boats, sail vessels, rafts, barges and other watercraft; to provide for the removal of obstructions to navigation and of structures dangerous to navigation or to other property, in or adjoining the waterfront, except in municipalities in counties in which there is a city of the first class. [1984 c 258 § 804; 1977 ex.s. c 316 § 23; 1965 ex.s. c 116 § 10; 1965 c 7 § 35-.24.290. Prior: 1915 c 184 § 14; 1893 c 70 § 3; 1891 c 56 § 3; 1890 p 183 § 17; RRS § 9127.]

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

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

35.24.450 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.24.455 Criminal code repeals by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A city of the third class operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 206.]

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

35.24.460 through 35.24.480 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.27 TOWNS

Sections

35.27.370	Specific powers enumerated.
35.27.515	Criminal code repeals by town operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.
35.27.520	through 35.27.540 Repealed.

35.27.370 Specific powers enumerated. The council of said town shall have power:

(1) To pass ordinances not in conflict with the Constitution and laws of this state, or of the United States;

(2) To purchase, lease or receive such real estate and personal property as may be necessary or proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the town; to acquire, own, and hold real estate for cemetery purposes either within or without the corporate limits, to sell and dispose of such real estate, to plat or replat such real estate into cemetery lots and to sell and dispose of any and all lots therein, and to operate, improve and maintain the same as a cemetery;

(3) To contract for supplying the town with water for municipal purposes, or to acquire, construct, repair and manage pumps, aqueducts, reservoirs, or other works necessary or proper for supplying water for use of such town or its inhabitants, or for irrigating purposes therein;

(4) To establish, build and repair bridges, to establish, lay out, alter, widen, extend, keep open, improve, and repair streets, sidewalks, alleys, squares and other public highways and places within the town, and to drain, sprinkle and light the same; to remove all obstructions therefrom; to establish the grades thereof; to grade, pave, plank, macadamize, gravel and curb the same, in whole or in part, and to construct gutters, culverts, sidewalks and crosswalks therein, or on any part thereof; to cause to be planted, set out and cultivated trees therein, and generally to manage and control all such highways and places;

(5) To establish, construct and maintain drains and sewers, and shall have power to compel all property owners on streets along which sewers are constructed to make proper connections therewith, and to use the same for proper purposes when such property is improved by the erection thereon of a building or buildings; and in case the owners of such improved property on such streets shall fail to make such connections within the time fixed by such council, they may cause such connections to be made, and to assess against the property in front of which such connections are made the costs and expenses thereof;

(6) To provide fire engines and all other necessary or proper apparatus for the prevention and extinguishment of fires;

(7) To impose and collect an annual license on every dog within the limits of the town, to prohibit dogs running at large, and to provide for the killing of all dogs found at large and not duly licensed;

(8) To levy and collect annually a property tax, for the payment of current expenses and for the payment of indebtedness (if any indebtedness exists) within the limits authorized by law;

(9) To license, for purposes of regulation and revenue, all and every kind of business, authorized by law and transacted and carried on in such town; and all shows, exhibitions and lawful games carried on therein and within one mile of the corporate limits thereof; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; to regulate, restrain, or prohibit the running at large of any and all domestic animals within the city limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the city; to establish, maintain and regulate a common pound for estrays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock;

(10) To improve the rivers and streams flowing through such town or adjoining the same; to widen, straighten and deepen the channels thereof, and to remove obstructions therefrom; to prevent the pollution of streams or water running through such town, and for this purpose shall have jurisdiction for two miles in either direction; to improve the waterfront of the town, and to construct and maintain embankments and other works to protect such town from overflow;

(11) To erect and maintain buildings for municipal purposes;

(12) To grant franchises or permits to use and occupy the surface, the overhead and the underground of streets, alleys and other public ways, under such terms and conditions as it shall deem fit, for any and all purposes, including but not being limited to the construction, maintenance and operation of railroads, street railways, transportation systems, water, gas and steam systems, telephone and telegraph systems, electric lines, signal systems, surface, aerial and underground tramways;

(13) To punish the keepers and inmates and lessors of houses of ill fame, and keepers and lessors of gambling houses and rooms and other places where gambling is carried on or permitted, gamblers and keepers of gambling tables;

(14) To impose fines, penalties and forfeitures for any and all violations of ordinances, and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment, or both; but no such fine shall exceed five thousand dollars, nor the term of imprisonment exceed one year;

(15) To operate ambulance service which may serve the town and surrounding rural areas and, in the discretion of the council, to make a charge for such service;

(16) To make all such ordinances, bylaws, rules, regulations and resolutions not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the town and its trade, commerce and manufacturers, and to do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter. [1984 c 258 § 805; 1977 ex.s. c 316 § 25; 1965 ex.s. c 116 § 15; 1965 c 127 § 1; 1965 c 7 § 35.27.370. Prior: 1955 c 378 § 4; 1949 c 151 § 1; 1945 c 214 § 1; 1941 c 74 § 1; 1927 c 207 § 1; 1925 ex.s. c 159 § 1; 1895 c 32 § 1; 1890 p 201 § 154; Rem. Supp. 1949 § 9175.]

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

Severability—1977 ex.s. c 316: See note following RCW 70.48.010.

Validating—1925 ex.s. c 159: "All franchises, permits and rights of way heretofore granted by any municipality of the fourth class to any person, firm or corporation, to construct, maintain or operate surface, underground and aerial tramways and other means of conveyance over, above, across, upon and along its streets, highways and alleys are hereby validated, ratified and confirmed." [1925 ex.s. c 159 § 2.]

35.27.515 Criminal code repeals by town operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A town operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes or repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree

on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 207.]

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

35.27.520 through 35.27.540 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.30 UNCLASSIFIED CITIES

Sections

35.30.010	Additional powers.
35.30.100	Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.

35.30.010 Additional powers. The council, or other legislative body, of all cities within the state of Washington which were created by special charter prior to the adoption of the state Constitution, and which have not since reincorporated under any general statute, shall have, in addition to the powers specially granted by the charter of such cities, the following powers:

(1) To construct, establish and maintain drains and sewers.

(2) To impose and collect an annual license not exceeding two dollars on every dog owned or harbored within the limits of the city.

(3) To levy and collect annually a property tax on all property within such city.

(4) To license all shows, exhibitions and lawful games carried on therein; and to fix the rates of license tax upon the same, and to provide for the collection of the same by suit or otherwise.

(5) To permit, under such restrictions as they may deem proper, the construction and maintenance of telephone, telegraph and electric light lines therein.

(6) To impose fines, penalties and forfeitures for any and all violations of ordinances; and for any breach or violation of any ordinance, to fix the penalty by fine or imprisonment or both, but no such fine shall exceed five thousand dollars nor the term of imprisonment exceed one year.

(7) To cause all persons imprisoned for violation of any ordinance to labor on the streets or other public property or works within the city.

(8) To make all such ordinances, bylaws and regulations, not inconsistent with the Constitution and laws of the state of Washington, as may be deemed expedient to maintain the peace, good government and welfare of the city, and to do and perform any and all other acts and things necessary and proper to carry out the purposes of

the municipal corporation. [1984 c 258 § 806; 1965 c 7 § 35.30.010. Prior: 1899 c 69 § 1; RRS § 8944.]

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

35.30.100 Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A city operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 208.]

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

Chapter 35.37 FISCAL—CITIES UNDER 20,000 AND CITIES OTHER THAN FIRST CLASS—BONDS

Sections

35.37.040	Authority to contract debts—Limits.
35.37.050	Excess indebtedness—Authority to contract.
35.37.060	Repealed.
35.37.070	Repealed.
35.37.090	General indebtedness bonds—Issuance and sale.
35.37.100	Repealed.

35.37.040 Authority to contract debts—Limits. Every city and town, may, without a vote of the people, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing nonvoter approved indebtedness will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters.

When bonds are issued under this section the ordinance providing therefor shall contain a statement showing the value of the taxable property in the city or town, as the term "value of the taxable property" is defined in RCW 39.36.015, together with the amount of the existing nonvoter approved and total indebtedness of the city or town, which indebtedness shall include the amount for which such bonds are issued. [1984 c 186 § 15; 1970 ex.s. c 42 § 12; 1965 c 7 § 35.37.040. Prior: (i)

1891 c 128 § 1; RRS § 9538. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

35.37.050 Excess indebtedness—Authority to contract. Every city and town may, when authorized by the voters of the city or town pursuant to Article VIII, section 6 of the state Constitution at an election held pursuant to RCW 39.36.050, contract indebtedness or borrow money for strictly municipal purposes on the credit of the city or town and issue negotiable bonds therefor in an amount which when added to its existing indebtedness will exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters but will not exceed the amounts of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters. [1984 c 186 § 16; 1965 c 7 § 35.37.050. Prior: (i) 1891 c 128 § 2; RRS § 9539. (ii) 1891 c 128 § 4, part; RRS § 9542, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Validation—1969 ex.s. c 191: "Any city or town, which has prior to the *effective date of this act, submitted to the voters thereof for their ratification or rejection the proposition of incurring indebtedness by the issuance of negotiable bonds in an amount when added to its existing indebtedness will exceed the amount of indebtedness authorized to be incurred without the assent of the voters, but will not exceed the amount of indebtedness authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred with the assent of the voters, may incur such indebtedness and issue such bonds even though the amount of money desired to be borrowed and the amount of negotiable bonds to be issued therefor were stated in a resolution adopted by the city or town council submitting such proposition to the voters, instead of in an ordinance passed by such council, if all other requirements of law, including, but not limited to the other provisions of RCW 35.37.050 are complied with." [1969 ex.s. c 191 § 1.]

***Reviser's note:** This act contained an emergency clause and became effective April 25, 1969.

35.37.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.37.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.37.090 General indebtedness bonds—Issuance and sale. All general indebtedness bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 17; 1983 c 167 § 36; 1965 c 7 § 35.37.090. Prior: (i) 1891 c 128 § 5, part; RRS § 9543, part. (ii) 1891 c 128 § 6, part; RRS § 9544, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

35.37.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.38 FISCAL—DEPOSITARIES

Sections

35.38.010	Designation of depositaries.
35.38.030	Repealed.
35.38.040	Segregation of collateral.
35.38.041	Repealed.
35.38.055	City official as officer, employee or stockholder of depositary.
35.38.060	Definition—"Financial institution."

35.38.010 Designation of depositaries. The treasurer in all cities and towns shall annually at the end of each fiscal year, or at such other times as may be deemed necessary, designate one or more financial institutions which are qualified public depositaries as set forth by the public deposit protection commission as depositary or depositaries for the moneys required to be kept by the treasurer. [1984 c 177 § 1; 1973 c 126 § 1; 1969 ex.s. c 193 § 22; 1965 c 7 § 35.38.010. Prior: 1905 c 103 § 1; RRS § 5568.]

Construction—**Severability**—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers, public deposits: RCW 39.58.140.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

35.38.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.38.040 Segregation of collateral. Before any such designation shall entitle the treasurer to make deposits in any financial institution, each financial institution so designated shall segregate eligible securities as collateral as provided by RCW 39.58.050 as now or hereafter amended. [1984 c 177 § 2; 1973 c 126 § 3; 1969 ex.s. c 193 § 25; 1967 c 132 § 6; 1965 c 7 § 35.38.040. Prior: 1945 c 240 § 2; 1935 c 45 § 3; 1931 c 87 § 5; 1909 c 40 § 1; 1907 c 22 § 2; Rem. Supp. 1945 § 5572.]

Construction—**Severability**—1969 ex.s. c 193: See notes following RCW 39.58.010.

35.38.041 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.38.055 City official as officer, employee or stockholder of depositary. Whenever a financial institution is designated by the treasurer in accordance with the provisions of this chapter, as a depositary for funds to be kept by the treasurer of such city or town and such financial institution has filed and had approved a contract with such city or town and complied with chapter 39.58 RCW, such contract shall not be invalid by reason of any official of the city being also an officer, employee, or stockholder of such financial institution. [1984 c 177 § 3; 1965 c 7 § 35.38.055. Prior: 1955 c 81 § 1.]

35.38.060 Definition—"Financial institution." "Financial institution," as used in the foregoing provisions of this chapter, means a branch of a bank engaged in banking in this state in accordance with RCW 30.04-.300, and any state bank or trust company, national

banking association, stock savings bank, mutual savings bank, or savings and loan association, which institution is located in this state and lawfully engaged in business. [1984 c 177 § 4; 1965 c 7 § 35.38.060. Prior: 1907 c 22 § 4; RRS § 5574.]

Chapter 35.40

FISCAL—VALIDATION AND FUNDING OF DEBTS

Sections

35.40.010	Repealed.
35.40.020	Repealed.
35.40.040	Repealed.
35.40.050	Repealed.

35.40.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.40.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.40.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.40.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.43

LOCAL IMPROVEMENTS—AUTHORITY—INITIATION OF PROCEEDINGS

Sections

35.43.140	Resolutions—Contents, publication—Hearing, by whom held.
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35.43.140 Resolutions—Contents, publication—Hearing, by whom held. Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, subsewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must

set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, or if there is no official newspaper, in any legal newspaper of general circulation therein; the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city having a population of fifteen thousand or more may designate an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action. [1984 c 203 § 1; 1965 c 7 § 35.43.140. Prior: 1957 c 144 § 8; prior: 1953 c 177 § 1. (i) 1929 c 97 § 1, part; 1911 c 98 § 10, part; RRS § 9361, part. (ii) 1911 c 98 § 16, part; RRS § 9368, part. (iii) 1911 c 98 § 17, part; RRS § 9369, part. (iv) 1911 c 98 § 18, part; RRS § 9370, part.]

Severability—1984 c 203: "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 203 § 10.]

Chapter 35.45

LOCAL IMPROVEMENTS—BONDS AND WARRANTS

Sections

35.45.170	Refunding bonds—Limitations.
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35.45.170 Refunding bonds—Limitations. The legislative authority of any city or town may issue and sell bonds to refund outstanding local improvement district or consolidated local improvement district bonds issued after June 7, 1984, on the earliest date such outstanding bonds may be redeemed following the date of issuance of such refunding bonds. Such refunding shall be subject to the following:

(1) The refunding shall result in a net interest cost savings after paying the costs and expenses of the refunding, and the principal amount of the refunding bonds may not exceed the principal balance of the assessment roll or rolls pledged to pay the bonds being refunded at the time of the refunding.

(2) The refunding bonds shall be paid from the same local improvement fund or bond redemption fund as the bonds being refunded.

(3) The costs and expenses of the refunding shall be paid from the proceeds of the refunding bonds, or the same local improvement district fund or bond redemption fund for the bonds being refunded, except the city or town may advance such costs and expenses to such fund pending the receipt of assessment payments available to reimburse such advances.

(4) The last maturity of the refunding bonds shall be no later than one year after the last maturity of bonds being refunded.

(5) The refunding bonds may be exchanged for the bonds being refunded or may be sold in the same manner permitted at the time of sale for local improvement district bonds.

(6) All other provisions of law applicable to the refunded bonds shall apply to the refunding bonds. [1984 c 186 § 66.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 35.58

METROPOLITAN MUNICIPAL CORPORATIONS

Sections

35.58.150	Metropolitan council—Vacancies.
35.58.450	General obligation bonds—Issuance, sale, form, term, election, payment.

35.58.150 Metropolitan council—Vacancies. A vacancy in the office of a member of the metropolitan council shall be filled in the same manner as provided for the original selection. The meeting of mayors to fill a vacancy of the member selected under the provisions of RCW 35.58.120(4) or of special district representatives to fill a vacancy of a member selected under RCW 35.58.120(7) shall be held at such time and place as shall be designated by the chairman of the metropolitan council after ten days' written notice mailed to the mayors of each of the cities specified in RCW 35.58.120(4) or to the representatives of the special purpose districts specified in RCW 35.58.120(7), whichever is applicable. [1984 c 44 § 1; 1967 c 105 § 5; 1965 c 7 § 35.58.150. Prior: 1957 c 213 § 15.]

35.58.450 General obligation bonds—Issuance, sale, form, term, election, payment. Notwithstanding the limitations of chapter 39.36 RCW and any other statutory limitations otherwise applicable and limiting municipal debt, a metropolitan municipal corporation shall have the power to contract indebtedness and issue general obligation bonds and to pledge the full faith and credit of the corporation to the payment thereof, for any authorized capital purpose of the metropolitan municipal corporation, not to exceed an amount, together with any outstanding nonvoter approved general indebtedness, equal to three-fourths of one percent of the value of the taxable property within the metropolitan municipal corporation, as the term "value of the taxable property" is defined in RCW 39.36.015. A metropolitan municipal corporation may additionally contract indebtedness and issue general obligation bonds, for any authorized capital purpose of a metropolitan municipal corporation, together with any other outstanding general indebtedness, not to exceed an amount equal to five percent of the

value of the taxable property within the corporation, as the term "value of the taxable property" is defined in RCW 39.36.015, when a proposition authorizing the indebtedness has been approved by three-fifths of the persons voting on said proposition at said election at which such election the total number of persons voting on such bond proposition shall constitute not less than forty percent of the total number of votes cast within the area of said metropolitan municipal corporation at the last preceding state general election. Such general obligation bonds may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of bonds which could then lawfully be issued. Such bonds may be issued in one or more series from time to time out of such authorization. The elections shall be held pursuant to RCW 39.36.050.

Whenever the voters of a metropolitan municipal corporation have, pursuant to RCW 84.52.056, approved excess property tax levies to retire such bond issues, both the principal of and interest on such general obligation bonds may be made payable from annual tax levies to be made upon all the taxable property within the metropolitan municipal corporation in excess of the constitutional and/or statutory tax limit. The principal of and interest on any general obligation bond may be made payable from any other taxes or any special assessments which the metropolitan municipal corporation may be authorized to levy or from any otherwise unpledged revenue which may be derived from the ownership or operation of properties or facilities incident to the performance of the authorized function for which such bonds are issued or may be made payable from any combination of the foregoing sources. The metropolitan council may include in the principal amount of such bond issue an amount for engineering, architectural, planning, financial, legal, urban design and other services incident to acquisition or construction solely for authorized capital purposes and may include an amount to establish a guaranty fund for revenue bonds issued solely for capital purposes.

General obligation bonds shall be issued and sold by the metropolitan council as provided in chapter 39.46 RCW and shall mature in not to exceed forty years from the date of issue. [1984 c 186 § 18; 1983 c 167 § 47; 1973 1st ex.s. c 195 § 24; 1971 ex.s. c 303 § 9; 1970 ex.s. c 56 § 38; 1970 ex.s. c 42 § 13; 1970 ex.s. c 11 § 1. Prior: 1969 ex.s. c 255 § 17; 1969 ex.s. c 232 § 16; 1967 c 105 § 13; 1965 c 7 § 35.58.450; prior: 1957 c 213 § 45.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Limitations upon indebtedness: State Constitution Art. 7 § 2 (Amendments 55, 59), Art. 8 § 6 (Amendment 27), chapter 39.36 RCW, RCW 84.52.050.

Chapter 35.59

MULTI-PURPOSE COMMUNITY CENTERS

Sections

35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized—Procedure.

35.59.060 Appropriation and expenditure of public moneys, issuance of general obligation bonds authorized—Procedure. To carry out the purposes of this chapter any municipality shall have the power to appropriate and/or expend any public moneys available therefor and to issue general obligation bonds within the limitations now or hereafter prescribed by the Constitution and laws of this state. Such general obligation bonds shall be issued and sold as provided in chapter 39.46 RCW. If the governing body of any municipality shall submit a proposition for the approval of general obligation bonds at any general or special election and shall declare in the ordinance or resolution setting forth such proposition that its purpose is the creation of a single integrated multi-purpose community center or a city-wide or county-wide system of such centers, all pursuant to this chapter, and that the creation of such center or system of centers constitutes a single purpose, such declaration shall be presumed to be correct and, upon the issuance of the bonds, such presumption shall become conclusive. Any such election shall be held pursuant to RCW 39.36.050. [1984 c 186 § 19; 1983 c 167 § 49; 1967 c 110 § 6.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Chapter 35.60

WORLD FAIRS OR EXPOSITIONS—
PARTICIPATION BY MUNICIPALITIES

Sections

35.60.040 Bonds—Laws applicable to authorization and issuance.

35.60.040 Bonds—Laws applicable to authorization and issuance. Any bonds to be issued by any municipality pursuant to the provisions of RCW 35.60.030, shall be authorized and issued in the manner and within the limitations prescribed by the Constitution and laws of this state or charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally and secured by a general tax levy as provided by law. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 20; 1983 c 167 § 51; 1965 c 7 § 35.60.040. Prior: 1961 c 149 § 4; prior: 1961 c 39 § 4.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

[1984 RCW Supp—page 322]

Chapter 35.61

METROPOLITAN PARK DISTRICTS

Sections

35.61.100 Indebtedness limit—Without popular vote.
35.61.160 Repealed.
35.61.170 Repealed.

35.61.100 Indebtedness limit—Without popular vote. Every metropolitan park district through its board of commissioners may contract indebtedness and evidence such indebtedness by the issuance and sale of warrants, short-term obligations as provided by chapter 39.50 RCW, or general obligation bonds, for park, boulevard, aviation landings, playgrounds, and parkway purposes, and the extension and maintenance thereof, not exceeding, together with all other outstanding nonvoter approved general indebtedness, three-fortieths of one percent of the value of the taxable property in such metropolitan park district, as the term "value of the taxable property" is defined in RCW 39.36.015. General obligation bonds shall not be issued with a maximum term in excess of twenty years. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 21; 1983 c 61 § 1; 1970 ex.s. c 42 § 14; 1965 c 7 § 35.61.100. Prior: 1943 c 264 § 6; Rem. Supp. 1943 § 6741-6; prior: 1927 c 268 § 1; 1907 c 98 § 6; RRS § 6725.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

35.61.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.61.170 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.63

PLANNING COMMISSIONS

Sections

35.63.090 Restrictions—Purposes of.

35.63.090 Restrictions—Purposes of. All regulations shall be worked out as parts of a comprehensive plan which each commission shall prepare for the physical and other generally advantageous development of the municipality and shall be designed, among other things, to encourage the most appropriate use of land throughout the municipality; to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural

resources; to encourage and protect access to direct sunlight for solar energy systems; and to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements, including protection of the quality and quantity of ground water used for public water supplies. [1984 c 253 § 1; 1979 ex.s. c 170 § 5; 1965 c 7 § 35.63.090. Prior: 1935 c 44 § 7; RRS § 9322-7.]

Severability—1979 ex.s. c 170: See note following RCW 64.04.140.

Chapter 35.67

SEWERAGE SYSTEMS—REFUSE COLLECTION AND DISPOSAL

Sections

35.67.070 General indebtedness bonds—When issued.
35.67.080 through 35.67.100 Repealed.

35.67.070 General indebtedness bonds—When issued. If the state board of health has ordered the adopting of and construction and operation of such system of sewerage or system for collection and disposal of refuse or the proposition has been adopted by vote of the people, who have authorized a general indebtedness therefor, general city or town bonds may be issued. The bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 22; 1965 c 7 § 35.67.070. Prior: 1941 c 193 § 3, part; Rem. Supp. 1941 § 9354-6, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

35.67.080 through 35.67.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35.76

STREETS—BUDGET AND ACCOUNTING

Sections

35.76.040 Manual of instructions.
35.76.050 Cost-audit examination and report.

35.76.040 Manual of instructions. The state auditor, after consultation with the association of Washington cities and the planning division of the state department of transportation shall prepare and distribute to the cities and towns a manual of instructions governing accounting and reporting procedures for all street expenditures. [1984 c 7 § 21; 1965 c 7 § 35.76.040. Prior: 1963 c 115 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

35.76.050 Cost-audit examination and report. The division of municipal corporations shall annually make a cost-audit examination of street records for each city and town and make a written report thereon to the legislative body of each city and town. The expense of the

examination shall be paid out of that portion of the motor vehicle fund allocated to the cities and towns and withheld for use by the state department of transportation under the terms of RCW 46.68.110(1). [1984 c 7 § 22; 1965 c 7 § 35.76.050. Prior: 1963 c 115 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 35.77

STREETS—PLANNING, ESTABLISHMENT, CONSTRUCTION, AND MAINTENANCE

Sections

35.77.010 Perpetual advanced plans for coordinated street program—Six-year program for arterial street construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures.

35.77.010 Perpetual advanced plans for coordinated street program—Six-year program for arterial street construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures. (1) The legislative body of each city and town, pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive street program for the ensuing six calendar years and shall file the program with the secretary of transportation not more than thirty days after its adoption. Annually thereafter the legislative body of each city and town shall review the work accomplished under the program and determine current city street needs. Based on these findings each such legislative body shall prepare and after public hearings thereon adopt a revised and extended comprehensive street program before July 1st of each year, and each one-year extension and revision shall be filed with the secretary of transportation not more than thirty days after its adoption. The purpose of this section is to assure that each city and town shall perpetually have available advanced plans looking to the future for not less than six years as a guide in carrying out a coordinated street construction program. The program may at any time be revised by a majority of the legislative body of a city or town, but only after a public hearing.

The six-year program of each city lying within an urban area shall contain a separate section setting forth the six-year program for arterial street construction based upon its long range construction plan and formulated in accordance with rules of the urban arterial board. The six-year program for arterial street construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the legislative body of the city. The six-year program for arterial street construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority may request for urban arterials only from the urban arterial trust account for the six-year period. The arterial street construction program shall provide for a more rapid rate of completion of the long-range construction needs of major arterial streets than for secondary and collector arterial streets, pursuant to rules of the urban arterial board: *Provided*, That urban arterial trust funds made

available to the group of incorporated cities lying outside the boundaries of federally approved urban areas within each region need not be divided between functional classes of arterials but shall be available for any designated arterial street.

(2) On and after July 1, 1976, each six-year program forwarded to the secretary in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycle, pedestrian, and equestrian purposes. [1984 c 7 § 23; 1977 ex.s. c 317 § 7; 1975 1st ex.s. c 215 § 1; 1967 ex.s. c 83 § 27; 1965 c 7 § 35.77.010. Prior: 1961 c 195 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1977 ex.s. c 317: See notes following RCW 82.36.010.

Severability—**Effective dates**—1967 ex.s. c 83: See RCW 47.26.900 and 47.26.910.

Highways, roads, streets in urban areas, urban arterials, development: Chapter 47.26 RCW.

Joint planning of urban arterial development: RCW 47.26.230.

Long-range arterial construction plans, counties and cities to prepare: RCW 47.26.170.

Perpetual advanced plans for coordinated county road program: RCW 36.81.121.

Priority projects to be selected in preparation of six-year program: RCW 47.26.220.

Urban arterial board: Chapter 47.26 RCW.

Chapter 35.78

STREETS—CLASSIFICATION AND DESIGN STANDARDS

Sections

35.78.020	State design standards—Committee—Membership.
35.78.040	Design standards must be followed by municipalities—Approval of deviations.

35.78.020 State design standards—Committee—Membership. There is created a state design standards committee of seven members, six of whom shall be appointed by the executive committee of the Association of Washington Cities to hold office at its pleasure and the seventh to be the state aid engineer. The members to be appointed by the executive committee of the Association of Washington Cities shall be restricted to the membership of the association or to those holding office and/or performing the function of chief engineer in any of the several municipalities in the state. [1984 c 7 § 24; 1965 c 7 § 35.78.020. Prior: 1949 c 164 § 2; Rem. Supp. 1949 § 9300–2.]

Severability—1984 c 7: See note following RCW 47.01.141.

35.78.040 Design standards must be followed by municipalities—Approval of deviations. The governing body of the several municipalities shall apply the uniform design standards adopted under RCW 35.78.030 to all new construction on major arterial and secondary arterial streets and to reconstruction of old such streets as far as practicable. No deviation from the design standards as to such streets may be made without approval of

the state aid engineer. [1984 c 7 § 25; 1965 c 7 § 35.78-.040. Prior: 1949 c 164 § 4; Rem. Supp. 1949 § 9300–4.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 35.80

UNFIT DWELLINGS, BUILDINGS AND STRUCTURES

Sections

35.80.030	Permissible ordinances—Appeal.
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35.80.030 Permissible ordinances—Appeal. (1) Whenever the local governing body of a municipality finds that one or more conditions of the character described in RCW 35.80.010 exist within its territorial limits, said governing body may adopt ordinances relating to such dwellings, buildings, or structures. Such ordinances may provide for the following:

(a) That an "improvement board" or officer be designated or appointed to exercise the powers assigned to such board or officer by the ordinance as specified herein. Said board or officer may be an existing municipal board or officer in the municipality, or may be a separate board or officer appointed solely for the purpose of exercising the powers assigned by said ordinance.

If a board is created, the ordinance shall specify the terms, method of appointment, and type of membership of said board, which may be limited, if the local governing body chooses, to public officers as herein defined.

(b) If a board is created, a public officer, other than a member of the improvement board, may be designated to work with the board and carry out the duties and exercise the powers assigned to said public officer by the ordinance.

(c) That if, after a preliminary investigation of any dwelling, building, or structure, the board or officer finds that it is unfit for human habitation or other use, he shall cause to be served either personally or by certified mail, with return receipt requested, upon all persons having any interest therein, as shown upon the records of the auditor's office of the county in which such property is located, and shall post in a conspicuous place on such property, a complaint stating in what respects such dwelling, building, or structure is unfit for human habitation or other use. If the whereabouts of such persons is unknown and the same cannot be ascertained by the board or officer in the exercise of reasonable diligence, and the board or officer shall make an affidavit to the effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor. A copy of the notice and order shall also be mailed, addressed to such person, at the address of the building involved in the proceedings, if different, and to each person or party having a recorded right, title, estate, lien, or interest in the property. Such complaint shall

contain a notice that a hearing will be held before the board or officer, at a place therein fixed, not less than ten days nor more than thirty days after the serving of said complaint; and that all parties in interest shall be given the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board or officer. A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, or structure is located, and such filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

(d) That the board or officer may determine that a dwelling, building, or structure is unfit for human habitation or other use if it finds that conditions exist in such dwelling, building, or structure which are dangerous or injurious to the health or safety of the occupants of such dwelling, building, or structure, the occupants of neighboring dwellings, or other residents of such municipality. Such conditions may include the following, without limitations: Defects therein increasing the hazards of fire or accident; inadequate ventilation, light, or sanitary facilities, dilapidation, disrepair, structural defects, uncleanness, overcrowding, or inadequate drainage. The ordinance shall state reasonable and minimum standards covering such conditions, including those contained in ordinances adopted in accordance with subdivision (7)(a) herein, to guide the board or the public officer and the agents and employees of either, in determining the fitness of a dwelling for human habitation, or building or structure for other use.

(e) That the determination of whether a dwelling, building, or structure should be repaired or demolished, shall be based on specific stated standards on (i) the degree of structural deterioration of the dwelling, building, or structure, or (ii) the relationship that the estimated cost of repair bears to the value of the dwelling, building, or structure, with the method of determining this value to be specified in the ordinance.

(f) That if, after the required hearing, the board or officer determines that the dwelling is unfit for human habitation, or building or structure is unfit for other use, it shall state in writing its findings of fact in support of such determination, and shall issue and cause to be served upon the owner or party in interest thereof, as is provided in subdivision (1)(c), and shall post in a conspicuous place on said property, an order which (i) requires the owner or party in interest, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure to render it fit for human habitation, or for other use, or to vacate and close the dwelling, building, or structure, if such course of action is deemed proper on the basis of the standards set forth as required in subdivision (1)(e); or (ii) requires the owner or party in interest, within the time specified on the order, to remove or demolish such dwelling, building, or structure, if this course of action is deemed proper on the basis of said standards. If no appeal is filed, a copy

of such order shall be filed with the auditor of the county in which the dwelling, building, or structure is located.

(g) The owner or any party in interest, within thirty days from the date of service upon the owner and posting of an order issued by the board under the provisions of subdivision (c) of this subsection, may file an appeal with the appeals commission.

The local governing body of the municipality shall designate or establish a municipal agency to serve as the appeals commission. The local governing body shall also establish rules of procedure adequate to assure a prompt and thorough review of matters submitted to the appeals commission, and such rules of procedure shall include the following, without being limited thereto: (i) All matters submitted to the appeals commission must be resolved by the commission within sixty days from the date of filing therewith and (ii) a transcript of the findings of fact of the appeals commission shall be made available to the owner or other party in interest upon demand.

The findings and orders of the appeals commission shall be reported in the same manner and shall bear the same legal consequences as if issued by the board, and shall be subject to review only in the manner and to the extent provided in subdivision (2) of this section.

If the owner or party in interest, following exhaustion of his rights to appeal, fails to comply with the final order to repair, alter, improve, vacate, close, remove, or demolish the dwelling, building, or structure, the board or officer may direct or cause such dwelling, building, or structure to be repaired, altered, improved, vacated, and closed, removed, or demolished.

(h) That the amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the board or officer, shall be assessed against the real property upon which such cost was incurred unless such amount is previously paid. Upon certification to him by the treasurer of the municipality in cases arising out of the city or town or by the county improvement board or officer, in cases arising out of the county, of the assessment amount being due and owing, the county treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the general fund of the municipality. If the dwelling, building or structure is removed or demolished by the board or officer, the board or officer shall, if possible, sell the materials of such dwelling, building, or structure in accordance with procedures set forth in said ordinance, and shall credit the proceeds of such sale against the cost of the removal or demolition and if there be any balance remaining, it shall be paid to the parties entitled thereto, as determined by the board or officer, after deducting the cost incident thereto.

The demolition assessment shall constitute a lien against the property of equal rank with state, county and municipal taxes.

(2) Any person affected by an order issued by the appeals commission pursuant to subdivision (1)(f) hereof may, within thirty days after the posting and service of the order, petition to the superior court for an injunction restraining the public officer or members of the board from carrying out the provisions of the order. In all such proceedings the court is authorized to affirm, reverse, or modify the order and such trial shall be heard de novo.

(3) An ordinance adopted by the local governing body of the municipality may authorize the board or officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section. These powers shall include the following in addition to others herein granted: (a) (i) To determine which dwellings within the municipality are unfit for human habitation; (ii) to determine which buildings or structures are unfit for other use; (b) to administer oaths and affirmations, examine witnesses and receive evidence; and (c) to investigate the dwelling and other use conditions in the municipality or county and to enter upon premises for the purpose of making examinations when the board or officer has reasonable ground for believing they are unfit for human habitation, or for other use: *Provided*, That such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose after submitting evidence in support of an application which is adequate to justify such an order from a court of competent jurisdiction in the event entry is denied or resisted.

(4) The local governing body of any municipality adopting an ordinance pursuant to this chapter may appropriate the necessary funds to administer such ordinance.

(5) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(6) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

(7) Any municipality may (by ordinance adopted by its governing body) (a) prescribe minimum standards for the use and occupancy of dwellings throughout the municipality, or county, (b) prescribe minimum standards for the use or occupancy of any building or structure used for any other purpose, (c) prevent the use or occupancy of any dwelling, building, or structure, which is injurious to the public health, safety, morals, or welfare, and (d) prescribe punishment for the violation of any provision of such ordinance. [1984 c 213 § 1; 1973 1st

ex.s. c 144 § 1; 1969 ex.s. c 127 § 3; 1967 c 111 § 3; 1965 c 7 § 35.80.030. Prior: 1959 c 82 § 3.]

Chapter 35.92 MUNICIPAL UTILITIES

Sections
35.92.080 General indebtedness bonds.

35.92.080 General indebtedness bonds. When the voters have adopted a proposition for any public utility and have authorized a general indebtedness, general city or town bonds may be issued. The bonds shall be issued and sold in accordance with chapter 39.46 RCW.

There shall be levied each year a tax upon the taxable property of the city or town sufficient to pay the interest on and principal of the bonds then due, which taxes shall become due and collectible as other taxes: *Provided*, That it may pledge to the payment of such principal and interest the revenue of the public utility being acquired, constructed, or improved out of the proceeds of sale of such bonds. Such pledge of revenue shall constitute a binding obligation, according to its terms, to continue the collection of such revenue so long as such bonds or any of them are outstanding, and to the extent that revenues are insufficient to meet the debt service requirements on such bonds, the governing body of the municipality shall provide for the levy of taxes sufficient to meet such deficiency. [1984 c 186 § 23; 1983 c 167 § 67; 1970 ex.s. c 56 § 47; 1969 ex.s. c 232 § 24; 1967 c 107 § 1; 1965 c 118 § 2; 1965 c 7 § 35.92.080. Prior: 1909 c 150 § 3, part; RRS § 9490, part. Formerly RCW 80.40.080.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

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.

Title 35A OPTIONAL MUNICIPAL CODE

Chapters

- 35A.05 Consolidation of two or more contiguous municipal corporations as a noncharter code city.**
- 35A.11 Laws governing noncharter code cities and charter code cities—Powers.**
- 35A.20 Municipal courts or police courts in code cities.**
- 35A.21 Provisions affecting all code cities.**
- 35A.40 Fiscal provisions applicable to code cities.**
- 35A.42 Public officers and agencies, meetings, duties and powers.**
- 35A.47 Highways and streets.**
- 35A.63 Planning and zoning in code cities.**

Chapter 35A.05**CONSOLIDATION OF TWO OR MORE
CONTIGUOUS MUNICIPAL CORPORATIONS AS A
NONCHARTER CODE CITY**

Sections

- 35A.05.040 Petition for consolidation—Election.
 35A.05.170 Consolidation of two noncharter code cities and one
 first class city—Council-manager plan of govern-
 ment—Elections—City name.

35A.05.040 Petition for consolidation—Election.

When a sufficient petition, as determined by the rules set forth in RCW 35A.01.040, is filed with the legislative body of each of such contiguous municipal corporations, signed by electors of each such corporation in number equal to not less than ten percent of the votes cast at the last general municipal election therein, seeking consolidation of such contiguous municipal corporations as a noncharter code city under one of the plans of government authorized by this title, naming such plan and setting forth a name for the proposed consolidated city, the legislative body of the municipal corporation in which the largest number of inhabitants reside (hereinafter called principal legislative body) shall cause to be submitted to the electors of each of such corporations, at the next general municipal election, if one is to be held within one hundred and eighty days, or at a special election to be called for that purpose not less than sixty nor more than two hundred and twenty days after the filing of the petition, the question whether such corporation shall become consolidated as a noncharter code city under the plan of government proposed in the petition. [1984 c 203 § 2; 1967 ex.s. c 119 § 35A.05.040.]

Severability—1984 c 203: See note following RCW 35.43.140.

35A.05.170 Consolidation of two noncharter code cities and one first class city—Council-manager plan of government—Elections—City name. A consolidation of two noncharter code cities and one first class city, where each of the three cities has a council-manager plan or form of government, shall conform with the provisions of this section.

(1) Such a consolidated city shall have a council-manager plan of government with the number of council members as provided in this section. The interim council members shall not be elected as provided in RCW 35A.05.060 through 35A.05.110 or 35.10.250, but shall be composed of the council members of each of the consolidating cities. These interim city council members shall hold office until the next general municipal election. At least one hundred days before the next general municipal election after the consolidation, at which election their successors shall be elected, the interim council shall determine the number of council positions which shall be seven, nine, or eleven, and shall divide the consolidated city into districts or wards equal in number to the number of council positions. Each district or ward shall have approximately the same population, and as few as possible district or ward boundaries shall cross the previous boundary lines of the consolidated cities. The interim

city council shall hire a city manager and shall elect a mayor from among their membership, who shall chair council meetings.

(2) One council member shall be elected from each of these districts or wards at the next general municipal election. The terms of these newly elected members shall be staggered so that the minimum majority shall be elected to four-year terms and the remainder shall be elected to two-year terms. Those newly elected council members receiving the greatest number of votes shall receive the four-year terms. Thereafter, their successors shall be elected for four-year terms. These initially elected council members shall take office immediately after the results of their elections have been certified even though their terms are calculated from the first day of January in the year after their election.

(3) No proposal for assumption of indebtedness may be presented to the voters at the election where the question of consolidation is presented to the voters.

(4) No proposal to select a name for the consolidated corporation may be presented to the voters at the election where the consolidation question is presented to the voters. If the consolidation is approved, the consolidated city shall be temporarily named the consolidated city of (naming the previous cities in alphabetical order). At the next general municipal election, the city council shall submit two names to the city voters from which to choose, and the name receiving the greater number of votes shall become the name of the consolidated city.

(5) The initially elected city council shall hire a city manager and shall elect a mayor from among their membership, who shall chair council meetings.

(6) The consolidation of the three cities shall occur if the propositions authorizing the consolidation are approved by a simple majority vote in each of the three cities. The consolidation shall be effective at noon on the day after the election results are certified. [1984 c 8 § 1.]

Chapter 35A.11**LAWS GOVERNING NONCHARTER CODE CITIES
AND CHARTER CODE CITIES—POWERS**

Sections

- 35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities.
 35A.11.200 Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration.

35A.11.020 Powers vested in legislative bodies of noncharter and charter code cities. The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict

with the provisions of this title or of existing charter provisions until changed by the people: *Provided*, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for firemen and policemen which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for firemen and chapter 41.12 RCW for policemen now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for firemen or policemen which provides different pensions or retirement benefits than are provided by general law for such classes. Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns. In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, RCW 82.36.440, RCW 48.14.020, and RCW 48.14.080. [1984 c 258 § 807; 1969 ex.s. c 29 § 1; 1967 ex.s. c 119 § 35A.11.020.]

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

Effective date—1969 ex.s. c 29: "The effective date of this act is July 1, 1969." [1969 ex.s. c 29 § 2.]

35A.11.200 Criminal code repeal by city operating municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration. A code city

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operating a municipal court may not repeal in its entirety that portion of its municipal code defining crimes unless the municipality has reached an agreement with the appropriate county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. [1984 c 258 § 209.]

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

Chapter 35A.20

MUNICIPAL COURTS OR POLICE COURTS IN CODE CITIES

Sections

35A.20.010 through 35A.20.130 Repealed.

35A.20.150 Recodified as RCW 35A.21.195.

35A.20.010 through 35A.20.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35A.20.150 Recodified as RCW 35A.21.195. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35A.21

PROVISIONS AFFECTING ALL CODE CITIES

Sections

35A.21.220 Liability insurance and workers' compensation for offenders performing court-ordered community service.

35A.21.220 Liability insurance and workers' compensation for offenders performing court-ordered community service. The legislative authority of a code city may purchase liability insurance in an amount it deems reasonable to protect the code city, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of court-ordered community service, and may elect to treat offenders as employees and/or workers under Title 51 RCW. [1984 c 24 § 2.]

Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

Chapter 35A.40
FISCAL PROVISIONS APPLICABLE TO CODE
CITIES

Sections

- 35A.40.010 Accounting—Funds—Indebtedness—Bonds.
35A.40.020 Code city may elect to use checks when funds are solvent.
35A.40.030 Fiscal—Depositaries.
35A.40.040 Repealed.

35A.40.010 Accounting—Funds—Indebtedness—Bonds. Municipal accounts and funds, the contracting of indebtedness for municipal purposes and the issuance and payment of bonds therefor, the validation of preexisting obligations by the voters of a consolidated city, debt limitations, elections for authorization of the incurring of indebtedness, and provisions pertaining to the issuance, sale, funding and redemption of general obligation bonds and remedies for nonpayment thereof are governed and controlled by the general law as contained in, but not limited to chapters 35.37, 39.40, 39.46, 39.52, 39.56, and 43.80 RCW, and are hereby recognized as applicable to code cities. [1984 c 186 § 24; 1967 ex.s. c 119 § 35A.40.010.]

Purpose—1984 c 186: See note following RCW 39.46.110.

35A.40.020 Code city may elect to use checks when funds are solvent. A code city, by ordinance, may adopt a policy for the payment of claims or other obligations of the city, which are payable out of solvent funds, electing either to pay such obligations by warrant, or to pay such obligations by check: *Provided*, That no check shall be issued when the applicable fund is not solvent at the time payment is ordered, but a warrant shall be issued therefor. When checks are to be used, the legislative body shall designate the qualified public depository whereon such checks are to be drawn, and the officers authorized or required to sign such checks. Wherever in this title, reference is made to warrants, such term shall include checks where authorized by this section. [1984 c 177 § 5; 1967 ex.s. c 119 § 35A.40.020.]

35A.40.030 Fiscal—Depositaries. The legislative body of a code city, at the end of each fiscal year, or at such other times as the legislative body may direct, shall designate one or more financial institutions which are qualified public depositories as set forth by the public deposit protection commission as depository or depositories of the moneys required to be kept by the code city treasurer or other officer performing the duties commonly performed by the treasurer of a code city: *Provided*, That where any bank has been designated as a depository hereunder such designation shall continue in force until revoked by a majority vote of the legislative body of such code city. The provisions relating to depositories, contained in chapter 39.58 RCW, as now or hereafter amended, are hereby recognized as applicable to code cities and to the depositories designated by them. [1984 c 177 § 6; 1973 c 126 § 4; 1967 ex.s. c 119 § 35A.40.030.]

35A.40.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 35A.42

PUBLIC OFFICERS AND AGENCIES, MEETINGS,
DUTIES AND POWERS

Sections

- 35A.42.010 City treasurer—Miscellaneous authority and duties. (Effective July 1, 1985.)

35A.42.010 City treasurer—Miscellaneous authority and duties. (Effective July 1, 1985.) In addition to authority granted and duties imposed upon code city treasurers by this title, code city treasurers, or the officers designated by charter or ordinance to perform the duties of a treasurer, shall have the duties and the authority to perform the following: (1) As provided in RCW 8.12.500 relating to bonds and compensation payments in eminent domain proceedings; (2) as provided in RCW 68.12.050 relating to cemetery improvement funds; (3) as provided in RCW 41.28.080 relating to custody of employees' retirement funds; (4) as provided in RCW 47.08.100 relating to the use of city street funds; (5) as provided in RCW 46.68.080 relating to motor vehicle funds; (6) as provided in RCW 41.16.020 and chapter 41.20 RCW relating to police and firemen's relief and pension boards; (7) as provided in chapter 42.20 RCW relating to misappropriation of funds; and (8) as provided in chapter 39.60 RCW relating to investment of municipal funds. The treasurer shall be subject to the penalties imposed for the violation of any of such provisions. Where a provision of this title, or the general law, names the city treasurer as an officer of a board or other body, or assigns duties to a city treasurer, such position shall be filled, or such duties performed, by the officer of a code city who is performing the duties usually performed by a city treasurer, although he may not have that designation. [1984 c 258 § 320; 1967 ex.s. c 119 § 35A.42.010.]

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.

Chapter 35A.47

HIGHWAYS AND STREETS

Sections

- 35A.47.030 Public highways—Acquisition, agreements, transfers, regulations. (Effective July 1, 1985.)

35A.47.030 Public highways—Acquisition, agreements, transfers, regulations. (Effective July 1, 1985.) The provisions of Title 47 RCW shall apply to code cities, its officers and employees to the same extent as such provisions are applicable to any other class of city within the state, including, without limitation, the following: (1) The acquisition by the state of municipal lands and the exchange of state highway and municipal lands, as provided in chapter 47.12 RCW; (2) the dedication of

public land for city streets as provided by RCW 36.34-.290 and 36.34.300; (3) city contributions to finance toll facilities as provided in RCW 47.56.250; (4) contracts with the department of transportation, as provided in RCW 47.01.210; (5) the construction, maintenance, jurisdiction, and control of city streets, as provided in chapter 47.24 RCW; (6) agreements between the department of transportation and a city for the benefit or improvement of highways, roads, or streets, as provided in RCW 47.28.140; (7) sales, leases, or transfers as authorized by RCW 47.12.063, 47.12.066, and 47.12-.080; (8) the erection of information signs as regulated by RCW 47.42.050 and 47.42.060; (9) provisions relating to limited access highways under chapter 47.52 RCW; (10) the acquisition and abandonment for state highways as provided by RCW 36.75.090 and 90.28.020; and (11) the sharing of maintenance of streets and alleys as an extension of county roads as provided by RCW 35.77.020. [1984 c 258 § 321; 1983 c 3 § 69; 1967 ex.s. c 119 § 35A.47.030.]

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.

Chapter 35A.63

PLANNING AND ZONING IN CODE CITIES

Sections

35A.63.061 Comprehensive plan—Required elements.

35A.63.061 Comprehensive plan—Required elements. The comprehensive plan shall be in such form and of such scope as the code city's ordinance or charter may require. It may consist of a map or maps, diagrams, charts, reports and descriptive and explanatory text or other devices and materials to express, explain, or depict the elements of the plan; and it shall include a recommended plan, scheme, or design for each of the following elements:

(1) A land-use element that designates the proposed general distribution, general location, and extent of the uses of land. These uses may include, but are not limited to, agricultural, residential, commercial, industrial, recreational, educational, public, and other categories of public and private uses of land. The land-use element shall also include estimates of future population growth in, and statements of recommended standards of population density and building intensity for, the area covered by the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies.

(2) A circulation element consisting of the general location, alignment, and extent of existing and proposed major thoroughfares, major transportation routes, and major terminal facilities, all of which shall be correlated with the land-use element of the comprehensive plan. [1984 c 253 § 2; 1967 ex.s. c 119 § 35A.63.061.]

Title 36

COUNTIES

Chapters

- 36.16 County officers—General.
- 36.18 Fees of county officers.
- 36.22 County auditor.
- 36.26 Public defender.
- 36.29 County treasurer.
- 36.32 County commissioners.
- 36.48 Depositaries.
- 36.58 Solid waste disposal.
- 36.62 Hospitals.
- 36.65 Combined city and county municipal corporations.
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- 36.68 Parks and recreational facilities.
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- 36.78 Roads and bridges—County road administration board.
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- 36.86 Roads and bridges—Standards.
- 36.88 County road improvement districts.
- 36.89 Highways—Open spaces—Parks—Recreation, community, health and safety facilities—Storm water control.
- 36.93 Local governmental organization—Boundaries—Review boards.
- 36.94 Sewerage, water and drainage systems.

Chapter 36.16

COUNTY OFFICERS—GENERAL

Sections

36.16.139 Liability insurance and workers' compensation for offenders performing court-ordered community service.

36.16.139 Liability insurance and workers' compensation for offenders performing court-ordered community service. The legislative authority of a county may purchase liability insurance in an amount it deems reasonable to protect the county, its officers, and employees against liability for the wrongful acts of offenders or injury or damage incurred by offenders in the course of community service imposed by court order or pursuant to RCW 13.40.080. The legislative authority of a county may elect to treat offenders as employees and/or workers under Title 51 RCW. [1984 c 24 § 3.]

Workers' compensation coverage of offenders performing community service: RCW 51.12.045.

Chapter 36.18
FEEES OF COUNTY OFFICERS

Sections

36.18.010	Auditor's fees.
36.18.020	Clerk's fees.
36.18.025	Portion of filing fees to be remitted to state treasurer. (Effective July 1, 1985.)
36.18.026	Repealed. (Effective July 1, 1985.)
36.18.027	Repealed. (Effective July 1, 1985.)
36.18.110	Monthly statement to county auditor.
36.18.120	Statements to be checked.

36.18.010 Auditor's fees. County auditors shall collect the following fees for their official services: For filing each chattel mortgage, renewal affidavit, or conditional sale contract, and entering same as required by law, two dollars; for each assignment, modification, transfer, correction, or release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars;

For filing a release of chattel mortgage, conditional sale contract, or miscellaneous instrument, two dollars: *Provided*, That said fee shall be paid at the time of filing the chattel mortgage, conditional sale contract, or miscellaneous instrument, and no charge shall be made when the release of any of the above instruments is filed;

For recording instruments, for the first page, legal size (eight and one-half by thirteen inches or less), three dollars; for each additional legal size page, one dollar; for indexing each name over two, fifty cents;

For marginal release of mortgage or lien, one dollar;

For preparing and certifying copies, for the first legal size page, two dollars; for each additional legal size page, one dollar;

For preparing noncertified copies, for each legal size page, fifty cents;

For administering an oath or taking an affidavit, with or without seal, two dollars;

For issuing marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund, which five-dollar fee shall expire June 30, 1988, plus an additional five-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund which five-dollar fee shall expire June 30, 1987;

For searching records per hour, four dollars;

For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: *Provided*, That there shall be a minimum fee of twenty-five dollars per plat;

For filing of miscellaneous records, not listed above, three dollars;

For making marginal notations on original recording when blanket assignment or release of instrument is filed for record, each notation, fifty cents;

For recording of miscellaneous records, not listed above, for first legal size page, three dollars; for each

additional legal size page, one dollar. [1984 c 261 § 4; 1982 1st ex.s. c 15 § 7; 1982 c 4 § 12; 1977 ex.s. c 56 § 1; 1967 c 26 § 8; 1963 c 4 § 36.18.010. Prior: 1959 c 263 § 6; 1953 c 214 § 2; 1951 c 51 § 4; 1907 c 56 § 1, part, p 92; 1903 c 151 § 1, part, p 295; 1893 c 130 § 1, part, p 423; Code 1881 § 2086, part, p 358; 1869 p 369 § 3; 1865 p 94 § 1; part; 1863 p 391 § 1, part, p 394; 1861 p 34 § 1, part, p 37; 1854 p 368 § 1, part, p 371; RRS §§ 497, part, 4105.]

Severability—1984 c 261: See note following RCW 43.121.020.

Expiration date—1982 1st ex.s. c 15: See note following RCW 28B.04.020.

Severability—1982 c 4: See RCW 43.121.910.

Family court funding, marriage license fee increase authorized: RCW 26.12.220.

36.18.020 Clerk's fees. Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of seventy dollars except in proceedings filed under RCW 26.50.030 where the petitioner shall pay a filing fee of twenty dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of seventy dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in his office for which no other charge is provided by law, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of seventy dollars: *Provided, however,* A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated.

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, there shall be paid a fee of seventy dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of four dollars.

(15) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(16) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of seventy dollars.

(17) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: *Provided,* That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(18) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to *RCW 26.36.010 or for forms and instructional brochures provided under RCW 26.50.030. [1984 c 263 § 29; 1981 c 330 § 5; 1980 c 70 § 1; 1977 ex.s. c 107 § 1; 1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1. Prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

*Reviser's note: RCW 26.36.010 was repealed by 1984 c 155 § 39, effective January 1, 1985.

Rules of court: Cf. RAP 14.3, 18.22.

Effective date—Severability—1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability—1981 c 330: See note following RCW 3.62.060.

Effective date—1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

36.18.025 Portion of filing fees to be remitted to state treasurer. (Effective July 1, 1985.) Thirty-five percent of the money received from filing fees paid pursuant to RCW 36.18.020, as now or hereafter amended, shall be transmitted by the county treasurer each month to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250. [1984 c 258 § 322; 1972 ex.s. c 20 § 2.]

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.

Effective date—1972 ex.s. c 20: See note following RCW 36.18.020.

36.18.026 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.18.027 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.18.110 Monthly statement to county auditor. Every salaried county and precinct officer authorized to receive fees shall on or before the first Monday of each month and at the end of his or her term of office submit to the county auditor a statement and copy of his or her fee book for the month last past, duly verified as provided in RCW 36.18.150. [1984 c 128 § 3; 1963 c 4 § 36.18.110. Prior: 1907 c 65 § 1; RRS § 4214.]

36.18.120 Statements to be checked. The county auditor shall check the statements submitted to the county auditor with the fee book, and the records pertaining thereto, and if they are found to be correct shall return them after having attached thereto the official certificates. [1984 c 128 § 4; 1963 c 4 § 36.18.120. Prior: 1907 c 65 § 2; RRS § 4215.]

Chapter 36.22 COUNTY AUDITOR

Sections

36.22.010 Duties of auditor.

36.22.010 Duties of auditor. The county auditor:

(1) Shall be recorder of deeds and other instruments in writing which by law are to be filed and recorded in and for the county for which he is elected;

(2) Shall examine and settle the accounts of all persons indebted to the county or who hold money payable into the county treasury, certify the amount to the treasurer, and give to the person paying, a discharge upon presentation and filing of the treasurer's receipt therefor, charging the treasurer with the amount;

(3) Shall keep an account current with the county treasurer, charge him with all money received as shown by his receipts issued and credit him with all disbursements paid out according to the record of settlement of the treasurer with the board of county commissioners;

(4) Shall make out and transmit to the state auditor a complete statement of the state fund account with the county for the past fiscal year certified by his certificate and seal, immediately after the completion of the annual settlement of the county treasurer with the board of county commissioners.

This statement shall show:

The total amount of tax levy for the current year as returned on the original assessment roll;

The amount of the supplemental taxes levied by the treasurer;

The amount collected from delinquent tax rolls of previous years, since the last report;

The amount of errors, double assessments, and rebates allowed on settlement of the treasurer with the board of county commissioners;

The amount paid to the state treasurer since the last annual settlement and all such other credits as the county may be entitled to receive in abatement of state taxes;

The balance of the delinquent tax account for the current year.

(5) Shall make a complete exhibit of the finances of the county immediately after the July settlement between the county treasurer and the county commissioners. He shall cause the exhibit to be published in some newspaper printed within the county; if there is none, he shall post the exhibit in a conspicuous place in his office.

The exhibit shall show:

The amount of taxes assessed in the county for the preceding year for state, county, road, bridge, school, and other purposes;

The amount of taxes collected on such assessment;

The amount of money received from other sources;

The amount received into the treasury;

The amount still due and not collected;

The number of warrants issued, the several purposes for which they were issued, the amount for each purpose, and the total amount;

The total amount of warrants redeemed;

The amount of outstanding warrants;

The present condition of the treasury;

Remarks.

(6) Shall make out a register of all warrants legally authorized and directed to be issued by any superior court cost bill, not earlier than ten days after receipt thereof, or by the board of county commissioners at any regular, adjourned, or special meeting thereof, not earlier than ten days after adjournment. He shall also make out a certified copy of the register of warrants under his hand and seal and deliver it forthwith to the county treasurer who shall record it in a book kept for that purpose. The auditor shall file and carefully preserve the original in his office for future reference. The register of warrants shall be part of the records of the county.

(7) Shall examine the books of the treasurer between the first and tenth of each month and see that they have been correctly kept.

(8) As clerk of the board of county commissioners, shall:

Record all of the proceedings of the board;

Make full entries of all of their resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

Record the vote of each member on any question upon which there is a division or at the request of any member present;

Sign all orders made and warrants issued by order of the board for the payment of money;

Record the reports of the county treasurer of the receipts and disbursements of the county;

Preserve and file all accounts acted upon by the board;

Preserve and file all petitions and applications for franchises and record the action of the board thereon;

Record all orders levying taxes;

Perform all other duties required by any rule or order of the board. [1984 c 128 § 2; 1963 c 4 § 36.22.010. Prior: 1955 c 157 § 9; prior: (i) Code 1881 § 2707; 1869 p 310 §§ 1, 2, 3; 1863 p 549 §§ 1, 2, 3; 1854 p 424 §§ 1, 2, 3; RRS § 4083. (ii) Code 1881 § 2709; RRS § 4085. (iii) Code 1881 § 2711; RRS § 4088. (iv) 1893 c 119 § 2; Code 1881 § 2712; 1869 p 311 § 6; 1863 p 550 § 6; 1854 p 425 § 6; RRS § 4089. (v) 1893 c 119 § 3; Code 1881 § 2571; RRS § 4090. (vi) 1893 c 119 § 4; Code 1881 § 2713; 1869 p 311 § 7; 1867 p 130 § 1; RRS § 4091. (vii) 1893 c 119 § 5; Code 1881 § 2714; 1869 p 311 § 8; 1867 p 131 § 2; RRS § 4092. (viii) 1893 c 119 § 7; Code 1881 § 2718; 1869 p 312 § 13; RRS § 4095. (ix) Code 1881 § 2719; RRS § 4098. (x) 1893 c 119 § 8; Code 1881 § 2720; RRS § 4099.]

Chapter 36.26

PUBLIC DEFENDER

Sections

36.26.070 Duty to represent indigent defendants.

36.26.090 Appointment of attorney other than public defender.

36.26.070 Duty to represent indigent defendants. The public defender must represent, without charge to any accused, every indigent person who is or has been arrested or charged with a crime for which court appointed counsel for indigent defendants is required either under the Constitution of the United States or under the Constitution and laws of the state of Washington:

(1) If such arrested person or accused, having been apprised of his constitutional and statutory rights to counsel, requests the appointment of counsel to represent him; and

(2) If a court, on its own motion or otherwise, does not appoint counsel to represent the accused; and

(3) Unless the arrested person or accused, having been apprised of his right to counsel in open court, affirmatively rejects or intelligently repudiates his constitutional and statutory rights to be represented by counsel. [1984 c 76 § 18; 1969 c 94 § 7.]

36.26.090 Appointment of attorney other than public defender. For good cause shown, or in any case involving a crime of widespread notoriety, the court may, upon its own motion or upon application of either the public defender or of the indigent accused, appoint an attorney other than the public defender to represent the accused at any stage of the proceedings or on appeal: *Provided*, That the public defender may represent an accused, not an indigent, in any case of public notoriety where the court may find that adequate retained counsel is not available. The court shall award, and the county in which the offense is alleged to have been committed

shall pay, such attorney reasonable compensation and reimbursement for any expenses reasonably and necessarily incurred in the presentation of the accused's defense or appeal, in accordance with RCW 4.88.330. [1984 c 76 § 19; 1983 c 3 § 76; 1969 c 94 § 9.]

Chapter 36.29 COUNTY TREASURER

Sections

36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee.

36.29.020 Custodian of moneys—Investment of funds not required for immediate expenditures, service fee. The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer in savings or time accounts in designated qualified public depositories or in 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; in bankers' acceptances purchased on the secondary market, 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapter 39.58 RCW: *Provided*, Five percent of the interest or earnings, with an annual maximum of fifty dollars, on any transactions authorized by each resolution of the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the interest or earnings become available to the governing body: *Provided further*, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any

such funds, the county finance committee shall direct the county treasurer to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositories or in 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, in bankers' acceptances purchased on the secondary market, 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 or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapter 39.58 RCW: *Provided*, That the county treasurer shall have the power to select the specific qualified financial institution in which said funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited. [1984 c 177 § 7; 1982 c 73 § 1; 1980 c 56 § 1; 1979 c 57 § 1; 1973 1st ex.s. c 140 § 1; 1969 ex.s. c 193 § 26; 1967 c 173 § 1; 1965 c 111 § 2; 1963 c 4 § 36.29.020. Prior: 1961 c 254 § 1; 1895 c 73 § 1; RRS § 4112.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses on public deposits: RCW 39.58.140.

Public depositories: Chapter 39.58 RCW.

Chapter 36.32 COUNTY COMMISSIONERS

Sections

36.32.180 Examination of accounts.
36.32.435 Historic preservation—Authorization to acquire property, borrow money, issue bonds, etc.
36.32.490 County freeholders—Method of filling vacancies.
36.32.500 Ad hoc community councils—Proposal.
36.32.505 Ad hoc community councils—Establishment—Hearing—Adoption of ordinance.

36.32.180 Examination of accounts. At the July session, the board of county commissioners shall examine and compare the accounts and statements of the county auditor and county treasurer, aside from the regular settlement with the treasurer, and shall enter upon its record a summarized statement of the receipts and expenditures of the preceding year. [1984 c 128 § 1; 1963 c 4 § 36.32.180. Prior: 1893 c 105 § 2; Code 1881 § 2678; 1869 p 306 § 16; 1867 p 55 § 16; 1863 p 543 § 16; 1854 p 422 § 16; RRS § 4070.]

36.32.435 Historic preservation—Authorization to acquire property, borrow money, issue bonds, etc. Any county may acquire title to or any interest in real and personal property for the purpose of historic preservation and may restore, improve, maintain, manage, and lease the property for public or private use and may enter into contracts, borrow money, and issue bonds and other obligations for such purposes. This authorization shall not expand the eminent domain powers of counties. [1984 c 203 § 4.]

Severability—1984 c 203: See note following RCW 35.43.140.

36.32.490 County freeholders—Method of filling vacancies. Vacancies in the position of county freeholder shall be filled with a person qualified for the position who is appointed by majority action of the remaining county freeholders. [1984 c 163 § 1.]

Election of county freeholders: RCW 29.21.330.

36.32.500 Ad hoc community councils—Proposal. The legislative authority of any county may by resolution propose the establishment of one or more ad hoc community councils within the unincorporated area of the county. In adopting such resolution, the county legislative authority shall consider the extent to which the residents of the area encompassed by the proposed ad hoc community council share common concerns regarding land use decisions as a result of geographical location, terrain, pattern of development, and other features which make the area distinctive as a community. No ad hoc community council may be formed that has less than one hundred registered voters residing within its boundaries. Ad hoc community councils shall only have advisory capacities. [1984 c 203 § 6.]

Severability—1984 c 203: See note following RCW 35.43.140.

36.32.505 Ad hoc community councils—Establishment—Hearing—Adoption of ordinance. Upon the adoption of a resolution under RCW 36.32.500, the legislative authority of a county shall hold a hearing on the establishment of the ad hoc community council. The legislative authority of the county shall consider the establishment of the ad hoc community council at the hearing held under this section. All persons appearing at the meeting shall have an opportunity to be heard and to voice protests. The hearing may be continued from time to time, but the total number of days from the first day of the hearings to the final day shall not exceed sixty days.

If, after hearing public testimony on the issue, the legislative authority of the county determines that the welfare of the residents of the area encompassed by the proposed ad hoc community council will be served by the establishment of the council, it shall declare such to be its finding. Upon this determination, the county legislative authority may adopt an ordinance creating the ad hoc community council, setting its boundaries, establishing its duration, establishing any limitations on the subjects about which the council may make recommendations, and providing for the selection of the

council members who may be directly appointed by the county legislative authority. [1984 c 203 § 7.]

Severability—1984 c 203: See note following RCW 35.43.140.

Chapter 36.48 DEPOSITARIES

Sections

36.48.010	Depositaries to be designated by treasurer.
36.48.020	Repealed.
36.48.060	Definition—"Financial institution."

36.48.010 Depositaries to be designated by treasurer. Each county treasurer shall annually at the end of each fiscal year or at such other times as may be deemed necessary, designate one or more financial institutions in the state which are qualified public depositaries as set forth by the public deposit protection commission as depository or depositaries for all public funds held and required to be kept by him as such treasurer, and no county treasurer shall deposit any public money in financial institutions, except as herein provided. [1984 c 177 § 8; 1973 c 126 § 5; 1969 ex.s. c 193 § 27; 1963 c 4 § 36.48.010. Prior: 1907 c 51 § 1; RRS § 5562.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Public depositaries: Chapter 39.58 RCW.

36.48.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.48.060 Definition—"Financial institution." "Financial institution," whenever it occurs in RCW 36.48.010 through 36.48.050, means a branch of a bank engaged in banking in this state in accordance with RCW 30.04.300, and any state bank or trust company, national banking association, stock savings bank, mutual savings bank, or savings and loan association, which institution is located in this state and lawfully engaged in business. [1984 c 177 § 9; 1963 c 4 § 36.48.060. Prior: 1907 c 51 § 6; RRS § 5567.]

Chapter 36.58 SOLID WASTE DISPOSAL (Formerly: Garbage disposal)

Sections

36.58.150	Solid waste disposal district—Excess levies authorized—General obligation and revenue bonds.
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36.58.150 Solid waste disposal district—Excess levies authorized—General obligation and revenue bonds. (1) A solid waste disposal district shall not have the power to levy an annual levy without voter approval, but it shall have the power to levy a tax, in excess of the one percent limitation, upon the property within the district for a one year period to be used for operating or capital purposes whenever authorized by the electors of the district pursuant to RCW 84.52.052 and Article VII, section 2(a) of the state Constitution.

A solid waste disposal district may issue general obligation bonds for capital purposes only, subject to the limitations prescribed in RCW 39.36.020(1), and may provide for the retirement of the bonds by voter-approved bond retirement tax levies pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW.

A solid waste disposal district may issue revenue bonds to fund its activities. Such revenue bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such revenue bonds may be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 25; 1983 c 167 § 71; 1982 c 175 § 6.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—1982 c 175: See note following RCW 36.58.100.

Chapter 36.62 HOSPITALS

Sections

36.62.010	Authority to establish.
36.62.020	Repealed.
36.62.040	Contract for joint hospital.
36.62.050	Petition to establish—Beds limited.
36.62.060	Bond election.
36.62.070	Issuance of bonds—Terms.
36.62.080	Repealed.
36.62.090	Tax levy for maintenance.
36.62.100	Admission of patients—Liability for support.
36.62.110	Board of trustees—Membership.
36.62.120	Board of trustees—Initial appointment—Terms of office.
36.62.130	Board of trustees—Additional trustees for joint hospital.
36.62.140	Board of trustees—Qualifications of trustees.
36.62.150	Board of trustees—Removal of trustee—Procedure.
36.62.160	Board of trustees—Vacancies.
36.62.170	Board of trustees—Quorum.
36.62.180	Board of trustees—Powers and duties.
36.62.190	Board of trustees—Authority to accept gifts and bequests.
36.62.200	Board of trustees—Trustees not compensated—Contract interest barred—Reimbursement for travel expenses.
36.62.210	Superintendent—Appointment—Salary.
36.62.220	Repealed.
36.62.230	Superintendent—Duties.
36.62.240	Repealed.
36.62.252	County hospital fund—Established—Purpose—Monthly report.
36.62.270	Supplementary budget.
36.62.281	Repealed.
36.62.290	Contracts between board of regents of state universities and hospital board of trustees for medical services and teaching and research activities.

36.62.010 Authority to establish. The legislative authority of any county may establish, provide, and maintain hospitals for the care and treatment of the indigent, sick, injured, or infirm, and for this purpose the county legislative authority may:

(1) Purchase or lease real property or use lands already owned by the county;

(2) Erect all necessary buildings, make all necessary improvements and repairs and alter any existing building for the use of said hospitals;

(3) Use county moneys, levy taxes, and issue bonds as authorized by law, to raise a sufficient amount of money to cover the cost of procuring the site, constructing and operating hospitals, and for the maintenance thereof and all other necessary and proper expenses; and

(4) Accept and hold in trust for the county any grant of land, gift or bequest of money, or any donation for the benefit of the purposes of this chapter, and apply the same in accordance with the terms of the gift. [1984 c 26 § 1; 1963 c 4 § 36.62.010. Prior: 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

36.62.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.62.040 Contract for joint hospital. All contracts made in pursuance hereof shall be for such period of time and upon such terms and conditions as shall be agreed upon. The contract shall fully set forth the amount of money to be contributed by the county and city towards the acquisition of such site and the improvement thereof and the manner in which the property shall be improved and the character of the building or buildings to be erected thereon. It may provide for the amount of money to be contributed annually by the county and city for the upkeep and maintenance of the property and the building or buildings thereon, or it may provide for the relative proportion of such expense, which the county and city shall annually pay. The contract may specify the parts of such building or buildings which shall be set apart for the exclusive use and occupation of the county and city. The money to be contributed by the county or city may be raised by a sale of bonds of such county or city or by general taxation. Any such county or city now possessing funds or having funds available for a county or city hospital from a sale of bonds or otherwise may contract for the expenditure of such funds, as herein provided. Such contract shall be made only after a proper resolution or ordinance of the county legislative authority and ordinance of the city have been passed specifically authorizing it. The contract when made shall be binding upon the county and city during its existence or until it is modified or abrogated by mutual consent evidenced by appropriate legislation. A site with or without buildings may be contributed in lieu of money at a valuation to be agreed upon. [1984 c 26 § 2; 1963 c 4 § 36.62.040. Prior: (i) 1925 ex.s. c 174 § 2; RRS § 6090-2. (ii) 1947 c 228 § 1, part; 1925 ex.s. c 174 § 1, part; Rem. Supp. 1947 § 6090-1, part.]

36.62.050 Petition to establish—Beds limited. When it is proposed to establish such hospital, a petition shall be presented to the county legislative authority, signed by three hundred or more resident taxpayers of

the county, requesting the county legislative authority to submit to the electors the proposition to issue bonds for the purpose of procuring a site, and erecting, equipping, and maintaining such hospital, and specifying the amount of bonds proposed to be issued for that purpose and the number of hospital beds. [1984 c 26 § 3; 1963 c 4 § 36.62.050. Prior: 1925 ex.s. c 174 § 3; RRS § 6090-3.]

36.62.060 Bond election. Upon presentation of the petition, the county legislative authority may submit to the voters of the county at the next general election the question of issuing bonds and levying a tax for such hospital. [1984 c 26 § 4; 1963 c 4 § 36.62.060. Prior: 1925 ex.s. c 174 § 4; RRS § 6090-4.]

36.62.070 Issuance of bonds—Terms. The bonds issued for such hospital shall not have maturities in excess of twenty years. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 26; 1984 c 26 § 5; 1983 c 167 § 72; 1970 ex.s. c 56 § 49; 1969 ex.s. c 232 § 26; 1963 c 4 § 36.62.070. Prior: 1925 ex.s. c 174 § 5; RRS § 6090-5.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

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.

36.62.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.62.090 Tax levy for maintenance. If the hospital is established, the county legislative authority, at the time of levying general taxes, may levy a tax, not to exceed fifty cents per thousand dollars of assessed value in any one year, for the maintenance of the hospital. [1984 c 26 § 6; 1973 1st ex.s. c 195 § 37; 1963 c 4 § 36.62.090. Prior: 1925 ex.s. c 174 § 6; RRS § 6090-6.]

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.62.100 Admission of patients—Liability for support. Patients shall be admitted to such hospitals in accordance with policies to be proposed by the board of trustees and approved by the county legislative authority. The policies shall provide, within the resources available to the hospital, that admission of patients shall not be dependent upon their ability to pay. Whenever a patient has been admitted to the hospital and in accordance with rules established by the board of trustees, the hospital may determine the person's ability to pay for the care provided by the hospital, render billings for the care, and take necessary steps to obtain payment for the costs of the care from the person, from the person's estate, or from any persons or organizations legally liable for the person's support. [1984 c 26 § 7; 1963 c 4 § 36.62.100. Prior: 1945 c 62 § 1; 1925 ex.s. c 174 § 8; Rem. Supp. 1945 § 6090-8.]

36.62.110 Board of trustees—Membership. Whenever any county, or any county and city jointly, or two or more counties jointly, establish a hospital for the care and treatment of the indigent, sick, injured, or infirm, under the provisions of this chapter, and such hospital is completed and ready for operation, the county legislative authority of the county in which the institution is located shall appoint thirteen persons as trustees for the institution. The thirteen trustees, together with the additional trustees required by RCW 36.62.130, if any, shall constitute a board of trustees for such hospital. [1984 c 26 § 8; 1967 ex.s. c 36 § 2; 1963 c 4 § 36.62.110. Prior: 1931 c 139 § 1, part; RRS § 6090-9, part.]

Effective date—1967 ex.s. c 36: See note following RCW 36.62.290.

36.62.120 Board of trustees—Initial appointment—Terms of office. The first members of the board of trustees of such institution shall be appointed by the county legislative authority within thirty days after the institution has been completed and is ready for operation. The county legislative authority appointing the initial members shall appoint three members for one-year terms, three members for two-year terms, three members for three-year terms, and four members for four-year terms, and until their successors are appointed and qualified, and thereafter their successors shall be appointed for terms of four years and until their successors are appointed and qualified: *Provided*, That the continuation of a member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial trustees shall be deemed to commence on the first day of August following the appointment but shall also include the period intervening between the appointment and the first day of August following the appointment.

For an institution which is already in existence on June 7, 1984, the county legislative authority shall appoint within thirty days of June 7, 1984, three additional members for one-year terms, two additional members for two-year terms, and two additional members for three-year terms, and until their successors are appointed and qualified, and thereafter their successors shall be appointed for terms of four years and until their successors are appointed and qualified: *Provided further*, That the continuation of an additional member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial additional members shall be deemed to commence on the first day of August of the year of appointment but shall also include the period intervening between the appointment and the first day of August of the year of the appointment.

Upon expiration of the terms of current members, the successors to current members shall be appointed for four-year terms and until their successors are appointed and qualified: *And provided further*, That the continuation of a successor to a current member past the expiration date of the term shall not change the commencement date of the term of the succeeding member. Each term of the initial successors to current

members shall be deemed to commence on the first day of August following the expiration of a current term but shall also include the period intervening between the appointment and the first day of August of the year of the appointment. [1984 c 26 § 9; 1963 c 4 § 36.62.120. Prior: (i) 1931 c 139 § 1, part; RRS § 6090-9, part. (ii) 1931 c 139 § 4, part; RRS § 6090-12, part.]

36.62.130 Board of trustees—Additional trustees for joint hospital. In case two or more counties establish a hospital jointly, the thirteen members of the board of trustees shall be chosen as provided from the county in which the institution is located and each county legislative authority of the other county or counties which contributed to the establishment of the hospital shall appoint two additional members of the board of trustees. The regular term of each of the two additional members shall be four years and until their successors are appointed and qualified. Such additional members shall be residents of the respective counties from which they are appointed and shall otherwise possess the same qualifications as other trustees. The first term of office of the persons first appointed as additional members shall be fixed by the county legislative authority of the county in which said hospital or institution is located, but shall not be for more than four years. [1984 c 26 § 10; 1963 c 4 § 36.62.130. Prior: 1931 c 139 § 1, part; RRS § 6090-9, part.]

36.62.140 Board of trustees—Qualifications of trustees. No person shall be eligible for appointment as a trustee who holds or has held during the period of two years immediately prior to appointment any salaried office or position in any office, department, or branch of the government which established or maintained the hospital. [1984 c 26 § 11; 1963 c 4 § 36.62.140. Prior: 1931 c 139 § 2; RRS § 6090-10.]

36.62.150 Board of trustees—Removal of trustee—Procedure. The county legislative authority which appointed a member of the board of trustees may remove the member for cause and in the manner provided in this section. Notice shall be provided by the county appointing authority to the trustee and the board of trustees generally. The notice shall set forth reasons which justify removal. The trustee shall be provided opportunity for a hearing before the county appointing authority: *Provided*, That three consecutive unexcused absences from regular meetings of the board of trustees shall be deemed cause for removal of a trustee without hearing. Any trustee removed for a cause other than three consecutive unexcused absences may appeal the removal within twenty days of the order of removal by seeking a writ of review before the superior court pursuant to chapter 7.16 RCW. Removal shall disqualify the trustee from subsequent reappointment. [1984 c 26 § 12; 1963 c 4 § 36.62.150. Prior: 1933 c 174 § 1, part; 1931 c 139 § 3, part; RRS § 6090-11, part.]

36.62.160 Board of trustees—Vacancies. Any vacancy in the board of trustees shall be filled by appointment by the county legislative authority making the original appointment, and such appointee shall hold office for the remainder of the term of the trustee replaced. [1984 c 26 § 13; 1963 c 4 § 36.62.160. Prior: 1933 c 174 § 1, part; 1931 c 139 § 3, part; RRS § 6090-11, part.]

36.62.170 Board of trustees—Quorum. A majority of the trustees shall constitute a quorum for the transaction of business. [1984 c 26 § 14; 1963 c 4 § 36.62.170. Prior: 1931 c 139 § 4, part; RRS § 6090-12, part.]

36.62.180 Board of trustees—Powers and duties. The board of trustees shall:

(1) Have general supervision and care of such hospitals and institutions and the buildings and grounds thereof and power to do everything necessary to the proper maintenance and operation thereof within the limits of approved budgets and the appropriations authorized;

(2) Elect from among its members a president and vice president;

(3) Adopt bylaws and rules for its own guidance and for the government of the hospital;

(4) Prepare annually a budget covering both hospital operations and capital projects, in accordance with the provisions of applicable law, and file such budgets with the county treasurer or if the hospital has been established by more than one county, with the county treasurer of each county, and if a city has contributed to the establishment of the hospital, with the official of the city charged by law with the preparation of the city budget; and

(5) File with the legislative authority of each county and city contributing to the establishment of such hospital, at a time to be determined by the county legislative authority of the county in which the hospital is located, a report covering the proceedings of the board with reference to the hospital during the preceding twelve months and an annual financial report and statement. [1984 c 26 § 15; 1963 c 4 § 36.62.180. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.]

36.62.190 Board of trustees—Authority to accept gifts and bequests. The board of trustees may accept property by gift, devise, bequest, or otherwise for the use of such institution, except that acceptance of any interest in real property shall be by prior authorization by the county. [1984 c 26 § 16; 1963 c 4 § 36.62.190. Prior: (i) 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part. (ii) 1931 c 139 § 8; RRS § 6090-16.]

36.62.200 Board of trustees—Trustees not compensated—Contract interest barred—Reimbursement for travel expenses. No trustee shall receive any compensation or emolument whatever for services as

trustee; nor shall any trustee have or acquire any personal interest in any lease or contract whatsoever, made by the county or board of trustees with respect to such hospital or institution: *Provided*, That each member of a board of trustees of a county hospital may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended: *Provided further*, That, in addition, trustees of a county hospital shall be reimbursed for travel expenses for traveling from their home to a trustee meeting at a rate provided for in RCW 43.03.060 as now existing or hereafter amended. [1984 c 26 § 17; 1979 ex.s. c 17 § 1; 1963 c 4 § 36.62.200. Prior: 1931 c 139 § 5; RRS § 6090-13.]

36.62.210 Superintendent—Appointment—Salary. The board of trustees shall appoint a superintendent who shall be appointed for an indefinite time and be removable at the will of the board of trustees. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular meeting by a majority vote. The superintendent shall receive such salary as the board of trustees shall fix by resolution. [1984 c 26 § 18; 1963 c 4 § 36.62.210. Prior: 1945 c 118 § 1, part; 1931 c 139 § 7, part; Rem. Supp. 1945 § 6090-15, part.]

36.62.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.62.230 Superintendent—Duties. The superintendent shall be the chief executive officer of the hospital or institution and shall perform all administrative services necessary to the efficient and economical conduct of the hospital or institution and the admission and proper care of persons properly entitled to the services thereof as provided by law or by the rules and regulations of the board of trustees. [1984 c 26 § 19; 1963 c 4 § 36.62.230. Prior: 1931 c 139 § 9; RRS § 6090-17.]

36.62.240 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.62.252 County hospital fund—Established—Purpose—Monthly report. Every county which maintains a county hospital or infirmary shall establish a "county hospital fund" into which fund shall be deposited all unrestricted moneys received from any source for hospital or infirmary services including money received for services to recipients of public assistance and other persons without income and resources sufficient to secure such services. The county may maintain other funds for restricted moneys. Obligations incurred by the hospital shall be paid from such funds by the county treasurer in the same manner as general county obligations are paid. The county treasurer shall furnish to the county legislative authority a monthly report of receipts and disbursements in the county hospital funds which report shall also show the balance of cash on hand. [1984 c 26 § 20; 1971 ex.s. c 277 § 1; 1967 ex.s. c 36 §

3; 1963 c 4 § 36.62.252. Prior: 1961 c 144 § 1; 1951 c 256 § 1.]

Effective date—1967 ex.s. c 36: See note following RCW 36.62.290.

36.62.270 Supplementary budget. In the event that additional funds are needed for the operation of a county hospital or infirmary, the county legislative authority shall have authority to adopt a supplemental budget. Such supplemental budget shall set forth the amount and sources of funds and the items of expenditure involved. [1984 c 26 § 21; 1971 ex.s. c 277 § 2; 1963 c 4 § 36.62.270. Prior: 1951 c 256 § 3.]

36.62.281 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.62.290 Contracts between board of regents of state universities and hospital board of trustees for medical services and teaching and research activities. Whenever any county, or any county and city jointly, or two or more counties jointly, establish a hospital under the provisions of this chapter, the board of trustees of the hospital is empowered, with the approval of the county legislative authority, to enter into a contract with the board of regents of a state university to provide hospital services, including management under the direction of a hospital administrator for the hospital, to provide for the rendering of medical services in connection with the hospital and to provide for the conduct of teaching and research activities by the university in connection with the hospital. Any such board of regents is empowered to enter into such a contract, to provide such hospital services, and to provide for the rendition of such medical services and for the carrying on of teaching and research in connection with such a hospital. If such a contract is entered into, the provisions of RCW 36.62.210 and 36.62.230 shall not be applicable during the term of the contract and all of the powers, duties and functions vested in the superintendent in this chapter shall be vested in the board of trustees. The board of trustees shall provide for such conditions and controls in the contract as it shall deem to be in the community interest. [1984 c 26 § 22; 1967 ex.s. c 36 § 1.]

Effective date—1967 ex.s. c 36: "This act shall take effect on July 1, 1967." [1967 ex.s. c 36 § 4.]

Chapter 36.65

COMBINED CITY AND COUNTY MUNICIPAL CORPORATIONS

Sections	
36.65.010	Intent.
36.65.020	School districts to be retained as separate political subdivisions.
36.65.030	Tax on net income prohibited.
36.65.040	Method of allocating state revenues.
36.65.050	Fire protection or law enforcement units—Binding arbitration in collective bargaining.
36.65.060	Public employee retirement or disability benefits not affected.

36.65.010 Intent. It is the intent of the legislature in enacting this chapter to provide for the implementation and clarification of Article XI, section 16 of the state Constitution, which authorizes the formation of combined city and county municipal corporations.

"City-county," as used in this chapter, means a combined city and county municipal corporation under Article XI, section 16 of the state Constitution. [1984 c 91 § 1.]

36.65.020 School districts to be retained as separate political subdivisions. Recognizing the paramount duty of the state to provide for the common schools under Article IX, sections 1 and 2 of the state Constitution, school districts shall be retained as separate political subdivisions within the city-county. [1984 c 91 § 2.]

36.65.030 Tax on net income prohibited. A county, city, or city-county shall not levy a tax on net income. [1984 c 91 § 3.]

36.65.040 Method of allocating state revenues. The method of allocating state revenues shall not be modified for a period of one year from the date the initial officers of the city-county assume office. During the one-year period, state revenue shares shall be calculated as if the preexisting county, cities, and special purpose districts had continued as separate entities. However, distributions of the revenue to the consolidated entities shall be made to the city-county. [1984 c 91 § 4.]

36.65.050 Fire protection or law enforcement units—Binding arbitration in collective bargaining. If the city-county government includes a fire protection or law enforcement unit that was, prior to the formation of the city-county, governed by a state statute providing for binding arbitration in collective bargaining, then the entire fire protection or law enforcement unit of the city-county shall be governed by that statute. [1984 c 91 § 5.]

36.65.060 Public employee retirement or disability benefits not affected. The formation of a city-county shall not have the effect of reducing, restricting, or limiting retirement or disability benefits of any person employed by or retired from a municipal corporation, or who had a vested right in any state or local retirement system, prior to the formation of the city-county. [1984 c 91 § 6.]

Chapter 36.67

LIMITATION OF INDEBTEDNESS—COUNTY BONDS

Sections	
36.67.010	Authority to contract indebtedness—Limitations.
36.67.030	through 36.67.050 Repealed.
36.67.060	Bond retirement.

36.67.010 Authority to contract indebtedness—Limitations. A county may contract indebtedness for

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general county purposes subject to the limitations on indebtedness provided for in RCW 39.36.020(2). Bonds evidencing such indebtedness shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 27; 1971 c 76 § 1; 1970 ex.s. c 42 § 17; 1963 c 4 § 36.67-.010. Prior: 1890 p 37 § 1; RRS § 5575.]

Purpose—1984 c 186: See note following RCW 39.46.110.

36.67.030 through 36.67.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

36.67.060 Bond retirement. Bonds issued under this chapter shall be retired by an annual tax levy and by any other moneys lawfully available and pledged therefor. [1984 c 186 § 28; 1983 c 167 § 77; 1975 1st ex.s. c 188 § 1; 1963 c 4 § 36.67.060. Prior: (i) 1890 p 39 § 6; RRS § 5580. (ii) 1890 p 39 § 7; RRS § 5581.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39-46.010 and note following.

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Chapter 36.68

PARKS AND RECREATIONAL FACILITIES

Sections	
36.68.480	Property tax levies or bond retirement levies—Election.
36.68.520	Annual excess property tax levy—General obligation bonds.
36.68.525	Six-year regular property tax levies—Limitations—Election.

36.68.480 Property tax levies or bond retirement levies—Election. If the petition or resolution initiating the formation of the proposed park and recreation service area proposes that the initial capital or operational costs are to be financed by regular property tax levies for a six-year period as authorized by RCW 36.68.525, or an annual excess levy, or that proposed capital costs are to be financed by the issuance of general obligation bonds and bond retirement levies, a proposition or propositions for such purpose or purposes shall be submitted to the voters of the proposed service area at the same election. A proposition or propositions for regular property tax levies for a six-year period as authorized by RCW 36.68.525, an annual excess levy, or the issuance of general obligation bonds and bond retirement levies, may also be submitted to the voters at any general or special election. [1984 c 131 § 7; 1981 c 210 § 7; 1973 1st ex.s. c 195 § 38; 1963 c 218 § 9.]

Purpose—1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Severability—1981 c 210: See note following RCW 36.68.400.

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

36.68.520 Annual excess property tax levy—General obligation bonds. (1) A park and recreation service area shall have the power to levy an annual excess levy upon the property included within the service area if

authorized at a special election called for the purpose in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.052.

This excess levy may be either for operating fund or for capital outlay, or for a cumulative reserve fund.

(2) A service area may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of the taxable property within the district. Such districts additionally may issue general obligation bonds equal to two and one-half percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by the voters of the district at a special election called for the purpose in accordance with the provisions of Article VIII, section 6 of the Constitution. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW.

Bonds may be retired by excess property tax levies when such levies are approved by the voters at a special election in accordance with the provisions of Article VII, section 2 of the Constitution and RCW 84.52.056.

Any elections shall be held as provided in RCW 39.36.050. [1984 c 186 § 29; 1984 c 131 § 8; 1983 c 167 § 271 (repealed by 1984 c 186 § 70 and by 1984 c 131 § 10); 1983 c 167 § 83; 1981 c 210 § 10; 1973 1st ex.s. c 195 § 39; 1970 ex.s. c 42 § 19; 1963 c 218 § 13.]

Reviser's note: This section was amended by 1984 c 131 § 8 and by 1984 c 186 § 29, 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).

Purpose—1984 c 186: See note following RCW 39.46.110.

Purpose—1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Effective dates—1983 c 167: "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 sections 271 and 272 shall take effect July 1, 1985." [1983 c 167 § 274.] Sections 271 and 272 are amendments to RCW 36.68.520 and 56.16.040, respectively.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1981 c 210: See note following RCW 36.68.400.

Severability—Effective dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

36.68.525 Six-year regular property tax levies—Limitations—Election. A park and recreation service area may impose regular property tax levies in an amount equal to fifteen cents or less per thousand dollars of assessed value of property in the service area in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted not more than twelve months prior to the date on which the proposed initial levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of the service area, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the

total votes cast in the service area at the last preceding general election when the number of electors voting on the proposition does not exceed forty percent of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition if the number of electors voting on the proposition exceeds forty per centum of the total votes cast in such taxing district in the last preceding general election. A proposition authorizing such tax levies shall not be submitted by a park and recreation district more than twice in any twelve-month period. Ballot propositions shall conform with RCW 29.30.111. If a park and recreation service area is levying property taxes, which in combination with property taxes levied by other taxing districts result in taxes in excess of the nine-dollar and fifteen cents per thousand dollars of assessed valuation limitation provided for in RCW 84.52.043, the park and recreation service area property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced. [1984 c 131 § 9.]

Purpose—1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Chapter 36.69

RECREATION DISTRICTS ACT

Sections

36.69.140	Excess levies authorized—Bonds—Interest bearing warrants.
36.69.145	Five-year regular property tax levies—Limitations—Election.

36.69.140 Excess levies authorized—Bonds—Interest bearing warrants. A park and recreation district shall have the power to levy an excess levy upon the property included within the district, in the manner prescribed by Article VII, section 2, of the Constitution and by RCW 84.52.052. Such excess levy may be either for operating funds or for capital outlay, or for a cumulative reserve fund. A park and recreation district may issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness equal to three-eighths of one percent of the value of the taxable property within such district, as the term "value of the taxable property" is defined in RCW 39.36.015. A park and recreation district may additionally issue general obligation bonds equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015, when such bonds are approved by three-fifths of the voters of the district at a general or special election called for that purpose and may provide for the retirement thereof by levies in excess of dollar rate limitations in accordance with the provisions of RCW 84.52.056. When authorized by the voters of the district, the district may issue interest bearing warrants payable out of and to the extent of excess levies authorized in the year in which the excess levy was approved. These elections shall be held as provided in RCW 39.36.050. Such bonds and warrants shall

be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 30; 1983 c 167 § 84; 1981 c 210 § 19; 1977 ex.s. c 90 § 1; 1973 1st ex.s. c 195 § 40; 1970 ex.s. c 42 § 20; 1969 c 26 § 5; 1967 c 63 § 5; 1963 c 4 § 36.69.140. Prior: 1961 c 272 § 5; 1959 c 304 § 6; 1957 c 58 § 14.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—1981 c 210: See note following RCW 36.68.400.

Severability—**Effective dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

36.69.145 Five-year regular property tax levies—Limitations—Election. (1) A park and recreation district may impose regular property tax levies in an amount equal to fifteen cents or less per thousand dollars of assessed value of property in the district in each year for five consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted at a special election or at the regular election of the district, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition if the number of electors voting on the proposition exceeds forty per centum of the total votes cast in such taxing district in the last preceding general election. A proposition authorizing the tax levies shall not be submitted by a park and recreation district more than twice in any twelve-month period. Ballot propositions shall conform with RCW 29.30.111. In the event a park and recreation district is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the one percent limitation provided for in Article 7, section 2, of our state Constitution result in taxes in excess of the limitation provided for in RCW 84.52.043, the park and recreation district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced.

(2) The limitation in RCW 84.55.010 shall not apply to the first levy imposed under this section following the approval of the levies by the voters under subsection (1) of this section. [1984 c 131 § 6; 1981 c 210 § 18.]

Purpose—1984 c 131 §§ 3–9: See note following RCW 29.30.111.

Chapter 36.70 PLANNING ENABLING ACT

Sections
36.70.330 Comprehensive plan—Required elements.

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36.70.330 Comprehensive plan—Required elements. The comprehensive plan shall consist of a map or maps, and descriptive text covering objectives, principles and standards used to develop it, and shall include each of the following elements:

(1) A land use element which designates the proposed general distribution and general location and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land, including a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan, all correlated with the land use element of the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of ground water used for public water supplies;

(2) A circulation element consisting of the general location, alignment and extent of major thoroughfares, major transportation routes, trunk utility lines, and major terminal facilities, all of which shall be correlated with the land use element of the comprehensive plan;

(3) Any supporting maps, diagrams, charts, descriptive material and reports necessary to explain and supplement the above elements. [1984 c 253 § 3; 1963 c 4 § 36.70.330. Prior: 1959 c 201 § 33.]

Chapter 36.71 PEDDLERS' AND HAWKERS' LICENSES

Sections
36.71.070 Hawkers, auctioneers, and barterers must procure license—Exceptions.
36.71.090 Farmers, gardeners, etc., peddling own produce exempt from license requirements—Exception.

36.71.070 Hawkers, auctioneers, and barterers must procure license—Exceptions. (1) If any person sells any goods, wares, or merchandise, at auction or public outcry, or barter goods, wares or merchandise from traveling boats, wagons, carts or vehicles of any kind, or from any pack, basket or other package carried on foot without first having obtained a license therefor from the board of county commissioners of the county in which such goods are sold or bartered, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than fifty dollars, and shall stand committed to the county jail of the county in which the conviction is had until such fine and cost of prosecution are paid, or discharged by due course of law: *Provided*, That this section shall not be construed as to apply to any seagoing craft or to administrators or executors selling property of deceased persons, or to private individuals selling their household property, or furniture, or farming tools, implements, or livestock, or any produce grown or raised by them, either at public auction or private sale.

(2) Notwithstanding subsection (1) of this section, counties shall not license auctioneers that are licensed by the state under chapter 18.11 RCW. [1984 c 189 § 6;

1963 c 4 § 36.71.070. Prior: 1879 p 130 § 1; 1873 p 437 § 1; RRS § 8341.]

36.71.090 Farmers, gardeners, etc., peddling own produce exempt from license requirements—Exception. It shall be lawful for any farmer, gardener, or other person, without license, to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person and no city or town shall pass or enforce any ordinance prohibiting the sale by or requiring license from the producers and manufacturers of farm produce and edibles as herein defined: *Provided*, That nothing herein authorizes any person to sell, deliver, or peddle, without license, in any city or town, any dairy product, meat, poultry, eel, fish, mollusk, or shellfish where a license is required to engage legally in such activity in such city or town. [1984 c 25 § 4; 1963 c 4 § 36.71.090. Prior: 1917 c 45 § 1; 1897 c 62 § 1; RRS § 8343.]

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

36.75.010	Definitions.
36.75.030	State and county cooperation.
36.75.090	Abandoned state highways.
36.75.100	Informalities not fatal.
36.75.250	State may intervene if maintenance neglected.
36.75.260	Annual report to secretary of transportation.

36.75.010 Definitions. As used in this title with relation to roads and bridges, the following terms mean:

(1) "Alley," a highway not designed for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Board," the board of county commissioners or the county legislative authority, however organized;

(3) "Center line," the line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(4) "City street," every highway or part thereof, located within the limits of incorporated cities and towns, except alleys;

(5) "County engineer" includes the county director of public works;

(6) "County road," every highway or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway;

(7) "Department," the state department of transportation;

(8) "Director" or "secretary," the state secretary of transportation or his duly authorized assistant;

(9) "Pedestrian," any person afoot;

(10) "Private road or driveway," every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(11) "Highway," every way, lane, road, street, boulevard, and every way or place in the state of Washington

open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(12) "Railroad," a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(13) "Roadway," the paved, improved, or proper driving portion of a highway designed or ordinarily used for vehicular travel;

(14) "Sidewalk," property between the curb lines or the lateral lines of a roadway, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(15) "State highway," includes every highway as herein defined, or part thereof, that has been designated as a state highway, or branch thereof, by legislative enactment. [1984 c 7 § 26; 1975 c 62 § 1; 1969 ex.s. c 182 § 1; 1963 c 4 § 36.75.010. Prior: 1937 c 187 § 1; RRS § 6450-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1975 c 62: "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 c 62 § 52.]

36.75.030 State and county cooperation. The state department of transportation and the governing officials of any county may enter into reciprocal public highway improvement and maintenance agreements, providing for cooperation either in the county assisting the department in the improvement or maintenance of state highways, or the department assisting the county in the improvement or maintenance of county roads, under any circumstance where a necessity appears therefor or where economy in public highway improvement and maintenance will be best served. [1984 c 7 § 27; 1963 c 4 § 36.75.030. Prior: 1939 c 181 § 11; RRS § 6450-2a.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.75.090 Abandoned state highways. All public highways in this state which have been a part of the route of a state highway and have been or may hereafter be no longer necessary as such, if situated outside of the limits of incorporated cities or towns, shall, upon certification thereof by the state department of transportation to the legislative authority of the county in which any portion of the highway is located, become a county road of the county, and if situated within the corporate limits of any city or town shall upon certification thereof by the state department of transportation to the mayor of the city or town in which any portion of the highway is located become a street of the city or town. Upon the certification the secretary of transportation shall execute a deed, which shall be duly acknowledged, conveying the abandoned highway or portion thereof to the county or city as the case may be. [1984 c 7 § 28; 1977 ex.s. c 78 § 4; 1963 c 4 § 36.75.090. Prior: 1955 c 361 § 4; prior: 1953 c 57 § 1; 1945 c 125 § 1, part; 1937 c 187 § 10, part; Rem. Supp. 1945 § 6450-10, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.75.100 Informalities not fatal. No informalities in the records in laying out, establishing, or altering any public highways existing on file in the offices of the various county auditors of this state or in the records of the department or the transportation commission, may be construed to invalidate or vacate the public highways. [1984 c 7 § 29; 1963 c 4 § 36.75.100. Prior: 1937 c 187 § 11; RRS § 6450–11.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.75.250 State may intervene if maintenance neglected. If by any agreement with the federal government or any agency thereof or with the state or any agency thereof, a county has agreed to maintain certain county roads or any portion thereof and the maintenance is not being performed to the satisfaction of the federal government or the department, reasonably consistent with original construction, notice thereof may be given by the department to the legislative authority of the county, and if the county legislative authority does not within ten days provide for the maintenance, the department may perform the maintenance, and the state treasurer shall pay the cost thereof on vouchers submitted by the department and deduct the cost thereof from any sums in the motor vehicle fund credited or to be credited to the county in which the county road is located. [1984 c 7 § 30; 1963 c 4 § 36.75.250. Prior: 1937 c 187 § 46; RRS § 6450–46.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.75.260 Annual report to secretary of transportation. Each county legislative authority shall on or before March 31st of each year submit such records and reports to the secretary of transportation, on forms furnished by the department, as are necessary to enable the secretary to compile an annual report on county highway operations. [1984 c 7 § 31; 1977 c 75 § 31; 1963 c 4 § 36.75.260. Prior: 1943 c 82 § 8; 1937 c 187 § 58; Rem. Supp. 1943 § 6450–58.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 36.76

ROADS AND BRIDGES—BONDS

Sections

36.76.090	How to be held—Issuance of bonds.
36.76.100	Notice of election.
36.76.120	Payment of principal and interest.
36.76.140	Toll bridge bonds authorized—Adjoining counties.

36.76.090 How to be held—Issuance of bonds. The election shall be held as provided in RCW 39.36.050. If three-fifths of the legal ballots cast on the question of issuing bonds for the improvement contemplated in RCW 36.76.080 are in favor of the bond issue, the county legislative authority must issue the general obligation bonds. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 31;

1983 c 167 § 91; 1970 ex.s. c 56 § 53; 1969 ex.s. c 232 § 29; 1963 c 4 § 36.76.090. Prior: 1913 c 25 § 2; RRS § 5593.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

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.

36.76.100 Notice of election. The notice of this election shall state which road or roads are to be built or improved. The notice need not describe the road or roads with particularity, but it shall be sufficient either to describe them by termini and with a general statement as to their course, or to use any other appropriate language sufficient to show the purpose intended to be accomplished. The county legislative authority may, at its option, give such other or further notice as it may deem advisable. [1984 c 186 § 32; 1963 c 4 § 36.76.100. Prior: 1913 c 25 § 4; RRS § 5595.]

Purpose—1984 c 186: See note following RCW 39.46.110.

36.76.120 Payment of principal and interest. The county legislative authority must ascertain and levy annually a tax sufficient to pay the interest on all such bonds whenever it becomes due and to meet the annual maturities of principal. The county treasurer must pay out of any money accumulated from the taxes levied to pay the interest as aforesaid, the interest upon all such bonds when it becomes due as provided on the bond or, if coupons are attached to a bond, upon presentation at the place of payment of the proper coupon. Any interest payments or coupons so paid must be reported to the county legislative authority at its first meeting thereafter. Whenever interest is payable at any place other than the city in which the county treasurer keeps his office, the county treasurer shall seasonably remit to the state fiscal agent the amount of money required for the payment of any interest which is about to fall due. When any such bonds or any interest is paid, the county treasurer shall suitably and indelibly cancel them. [1984 c 186 § 33; 1983 c 167 § 92; 1963 c 4 § 36.76.120. Prior: 1913 c 25 § 3; RRS § 5594.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

36.76.140 Toll bridge bonds authorized—Adjoining counties. The county legislative authority may, by majority vote, and by submission to the voters under the same procedure required in RCW 36.76.090 and 36.76.100, issue general obligation bonds for the purpose of contributing money, or the bonds themselves, to the department to help finance the construction of toll bridges across topographical formations constituting boundaries between the county and an adjoining county, or a toll bridge across topographical formation located wholly within an adjoining county, which in the discretion of the county legislative authority, directly or indirectly benefits the county. The bonds may be transferred to the

department to be sold by it for the purposes outlined herein. The bonds may bear interest at a rate or rates as authorized by the county legislative authority. Such indebtedness is subject to the limitations on indebtedness provided for in RCW 39.36.020(2). [1984 c 7 § 32; 1971 c 76 § 3; 1970 ex.s. c 56 § 54; 1969 ex.s. c 232 § 30; 1963 c 4 § 36.76.140. Prior: 1955 c 194 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

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.

Chapter 36.78

ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.090 Certificates of good practice—Withholding of motor vehicle tax distribution.

36.78.090 Certificates of good practice—Withholding of motor vehicle tax distribution. (1) Before May 1st of each year the board shall transmit to the state treasurer certificates of good practice on behalf of the counties which during the preceding calendar year:

(a) Have submitted to the state department of transportation or to the board all reports required by law or regulation of the board; and

(b) Have reasonably complied with provisions of law relating to county road administration and with the standards of good practice as formulated and adopted by the board.

(2) The board shall not transmit to the state treasurer a certificate of good practice on behalf of any county failing to meet the requirements of subsection (1) of this section, but the board shall in such case and before May 1st, notify the county and the state treasurer of its reasons for withholding the certificate.

(3) The state treasurer, upon receiving a notice that a certificate of good practice will not be issued on behalf of a county, or that a previously issued certificate of good practice has been revoked, shall, effective the first day of the month after that in which notice is received, withhold from such county its share of motor vehicle fuel taxes distributable pursuant to RCW 46.68.120 until the board thereafter issues on behalf of such county a certificate of good practice or a conditional certificate. After withholding or revoking a certificate of good practice with respect to any county, the board may thereafter at any time issue such a certificate or a conditional certificate when the board is satisfied that the county has complied or is diligently attempting to comply with the requirements of subsection (1) of this section.

(4) The board may, upon notice and a hearing, revoke a previously issued certificate of good practice or substitute a conditional certificate therefor when, after issuance of a certificate of good practice, any county fails to meet the requirements of subsection (1) (a) and (b) of this section, but the board shall in such case notify the

county and the state treasurer of its reasons for the revocation or substitution.

(5) Motor vehicle fuel taxes withheld from any county pursuant to this section shall not be distributed to any other county, but shall be retained in the motor vehicle fund to the credit of the county originally entitled thereto. Whenever the state treasurer receives from the board a certificate of good practice issued on behalf of such county he shall distribute to such county all of the funds theretofore retained in the motor vehicle fund to the credit of such county. [1984 c 7 § 33; 1977 ex.s. c 257 § 1; 1965 ex.s. c 120 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 36.79

ROADS AND BRIDGES—RURAL ARTERIAL PROGRAM

Sections

36.79.140 Expenditures from rural arterial trust account—Approval by board.

36.79.140 Expenditures from rural arterial trust account—Approval by board. At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account: *Provided however*, That counties of the seventh class are exempt from this eligibility restriction. The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in

RCW 36.79.080. [1984 c 113 § 1; 1983 1st ex.s. c 49 § 14.]

Chapter 36.80

ROADS AND BRIDGES—ENGINEER

Sections

36.80.010	Employment of road engineer.
36.80.080	Cost-audit examination by division of municipal corporations—Expense.

36.80.010 Employment of road engineer. The board shall employ a full-time county road engineer residing in the county. In seventh, eighth, and ninth class counties it may employ a county engineer on a part-time basis who need not be a resident of the county, or it may contract with other counties for the engineering services of a county road engineer from such other counties. [1984 c 11 § 1; 1980 c 93 § 1; 1969 ex.s. c 182 § 6; 1963 c 4 § 36.80.010. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

36.80.080 Cost-audit examination by division of municipal corporations—Expense. The division of municipal corporations shall annually make a cost-audit examination of the books and records of the county road engineer and make a written report thereon to the county legislative authority. The expense of the examination shall be paid out of that portion of the motor vehicle fund allocated to the several counties and withheld for use of the department of transportation under the terms of RCW 46.68.120(1). The state auditor shall certify the expense of such examination to the department. [1984 c 7 § 34; 1963 c 4 § 36.80.080. Prior: 1957 c 146 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 36.82

ROADS AND BRIDGES—FUNDS—BUDGET

Sections

36.82.150	County road budget—Department of transportation estimate of available funds.
36.82.170	County road budget—Budget as adopted filed with department of transportation.
36.82.180	County road budget—Preliminary supplemental budget.

36.82.150 County road budget—Department of transportation estimate of available funds. On or before the eighth day of June of each year the department of transportation shall prepare and file with the legislative authority of each county an estimate of the amount of money that will be paid to such county for the forthcoming calendar year in order that each board may prepare the necessary county road budget. [1984 c 7 § 35; 1963 c 4 § 36.82.150. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.82.170 County road budget—Budget as adopted filed with department of transportation. Upon the final adoption of the county road budgets of the several counties, the county legislative authorities shall file a copy thereof in the office of the department of transportation. [1984 c 7 § 36; 1963 c 4 § 36.82.170. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.82.180 County road budget—Preliminary supplemental budget. If any funds are paid to any county from the motor vehicle fund in excess of the amount estimated by the department of transportation and the excess funds have not been included by the county legislative authority in the then current county road budget or if funds become available from other sources upon a matching basis or otherwise and it is impracticable to adhere to the provisions of the county road budget, the legislative authority may by unanimous consent, consider and adopt a preliminary supplemental budget covering the excess funds for the remainder of the current fiscal year. [1984 c 7 § 37; 1963 c 4 § 36.82.180. Prior: 1949 c 156 § 6, part; 1943 c 82 § 7, part; 1937 c 187 § 56, part; Rem. Supp. 1949 § 6450-56, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 36.86

ROADS AND BRIDGES—STANDARDS

Sections

36.86.020	Minimum standards of construction.
36.86.030	Amendment of standards—Filing.
36.86.040	Uniform standard for signs, signals, guideposts—Railroad grade crossings.

36.86.020 Minimum standards of construction. In the case of roads, the minimum width between shoulders shall be fourteen feet with eight feet of surfacing, and in the case of bridges, which includes all decked structures, the minimum standard shall be for H-10 loading in accordance with the standards of the state department of transportation. When the standards have been prepared by the county road engineer, they shall be submitted to the county legislative authority for approval, and when approved shall be used for all road and bridge construction and improvement in the county. [1984 c 7 § 38; 1963 c 4 § 36.86.020. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.86.030 Amendment of standards—Filing. Road and bridge standards may be amended from time to time by resolution of the county legislative authority, but no standard may be approved by the legislative authority with any minimum requirement less than that specified in this chapter. Two copies of the approved standards shall be filed with the department of transportation for its use in examinations of county road work. [1984 c 7 §

39; 1963 c 4 § 36.86.030. Prior: 1943 c 73 § 1, part; 1937 c 187 § 4, part; Rem. Supp. 1943 § 6450-4, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.86.040 Uniform standard for signs, signals, guideposts—Railroad grade crossings. The county legislative authority shall erect and maintain upon the county roads such suitable and proper signs, signals, signboards, and guideposts and appropriate stop, caution, warning, restrictive, and directional signs and markings as it deems necessary or as may be required by law. All such markings shall be in accordance with the uniform state standard of color, design, erection, and location adopted and designed by the Washington state department of transportation. In respect to existing and future railroad grade crossings over county roads the legislative authority shall install and maintain standard, nonmechanical railroad approach warning signs on both sides of the railroad upon the approaches of the county road. All such signs shall be located a sufficient distance from the crossing to give adequate warning to persons traveling on county roads. [1984 c 7 § 40; 1963 c 4 § 36.86.040. Prior: 1955 c 310 § 1; 1937 c 187 § 37; RRS § 6450-37.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 36.88

COUNTY ROAD IMPROVEMENT DISTRICTS

Sections

36.88.015 Additional purposes.
36.88.295 Refunding bonds—Limitations.

36.88.015 Additional purposes. All counties have the power to create county road improvement districts for the construction, installation, improvement, operation, and maintenance of street and road lighting systems for any county roads, and subject to the approval of the state department of transportation, for state highways, and for safeguards to protect the public from hazards of open canals, flumes, or ditches, and the counties have the power to levy and collect special assessments against the real property specially benefited thereby for the purpose of paying the whole or any part of the cost of the construction, installation, or improvement together with the expense of furnishing electric energy, maintenance, and operation. [1984 c 7 § 41; 1965 c 60 § 2; 1963 c 84 § 2; 1963 c 4 § 36.88.015. Prior: 1959 c 75 § 4; 1953 c 152 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

36.88.295 Refunding bonds—Limitations. The legislative authority of any county may issue and sell bonds to refund outstanding road improvement district or consolidated road improvement district bonds issued after June 7, 1984, on the earliest date such outstanding bonds may be redeemed following the date of issuance of such refunding bonds. Such refunding shall be subject to the following:

(1) The refunding shall result in a net interest cost savings after paying the costs and expenses of the refunding, and the principal amount of the refunding bonds may not exceed the principal balance of the assessment roll or rolls pledged to pay the bonds being refunded at the time of the refunding.

(2) The refunding bonds shall be paid from the same local improvement fund or bond redemption fund as the bonds being refunded.

(3) The costs and expenses of the refunding shall be paid from the proceeds of the refunding bonds, or the same road improvement district fund or bond redemption fund for the bonds being refunded, except the county may advance such costs and expenses to such fund pending the receipt of assessment payments available to reimburse such advances.

(4) The last maturity of refunding bonds shall be no later than one year after the last maturity of bonds being refunded.

(5) The refunding bonds may be exchanged for the bonds being refunded or may be sold in the same manner permitted at the time of sale for road improvement district bonds.

(6) All other provisions of law applicable to the refunded bonds shall apply to the refunding bonds. [1984 c 186 § 67.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 36.89

HIGHWAYS—OPEN SPACES—PARKS—RECREATION, COMMUNITY, HEALTH AND SAFETY FACILITIES—STORM WATER CONTROL

Sections

36.89.030 Authority to establish, acquire, develop, construct, and improve highways, open spaces, parks, etc.
36.89.040 Issuance of general obligation bonds—Proposition submitted to voters.

36.89.030 Authority to establish, acquire, develop, construct, and improve highways, open spaces, parks, etc. Counties are authorized to establish, acquire, develop, construct, and improve open space, park, recreation, and community facilities, public health and safety facilities, storm water control facilities, and highways or any of them pursuant to the provisions of this chapter within and without the cities and towns of the county and for such purposes have the power to acquire lands, buildings and other facilities by gift, grant, purchase, condemnation, lease, devise, and bequest, to construct, improve, or maintain buildings, structures, and facilities necessary for such purposes, and to use and develop for such purposes the air rights over and the subsurface rights under any highway. The approval of the state department of transportation shall be first secured for such use and development of any state highway. For visual or sound buffer purposes the county shall not acquire by condemnation less than an owner's entire interest or right in the particular real property to be so acquired if the owner

objects to the taking of a lesser interest or right. [1984 c 7 § 42; 1970 ex.s. c 30 § 3; 1967 c 109 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Acquisition of interests in land for conservation, protection, preservation, or open space purposes by counties: RCW 64.04.130.

Flood control, county powers: RCW 86.12.020.

36.89.040 Issuance of general obligation bonds—

Proposition submitted to voters. To carry out the purposes of this chapter counties shall have the power to issue general obligation bonds within the limitations now or hereafter prescribed by the Constitution and laws of this state. Such general obligation bonds shall be issued and sold as provided in chapter 39.46 RCW.

The question of issuance of bonds for any undertaking which relates to a number of different highways or parts thereof, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein, may be submitted to the voters of the county as a single proposition. If the county legislative authority in submitting a proposition relating to different highways or parts thereof declare that such proposition has for its object the furtherance and accomplishment of the construction of a system of connected public highways within such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different open spaces, park, recreation and community facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different open spaces, park, recreation and community facilities declare that such proposition has for its object the furtherance, accomplishment or preservation of an open space, park, recreation and community facilities system available to, and for the benefit of, all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different public health and safety facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different public health and safety facilities declare that such proposition has for its object the furtherance or accomplishment of a system of public health and safety facilities for the benefit of all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the

issuance of the bonds the presumption shall become conclusive.

The question of the issuance of bonds for any undertaking which relates to a number of different storm water control facilities, whether situated wholly or partly within the limits of any city or town within the county, and whether such bonds are intended to supply the whole expenditure or to participate therein may be submitted to the voters as a single proposition. If the county legislative authority in submitting a proposition relating to different storm water control facilities declares that such proposition has for its object the furtherance, accomplishment or preservation of a storm water control facilities system for the benefit of all the residents of such county and constitutes a single purpose, such declaration shall be presumed to be correct and upon the issuance of the bonds the presumption shall become conclusive.

Elections shall be held as provided in RCW 39.36.050. [1984 c 186 § 34; 1983 c 167 § 99; 1970 ex.s. c 30 § 4; 1967 c 109 § 4.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Chapter 36.93

LOCAL GOVERNMENTAL ORGANIZATION— BOUNDARIES—REVIEW BOARDS

Sections

36.93.105 Board not to review annexation by water or sewer district pursuant to RCW 36.94.410 through 36.94.440.

36.93.105 Board not to review annexation by water or sewer district pursuant to RCW 36.94.410 through 36.94.440. Annexations of territory to a water or sewer district pursuant to RCW 36.94.410 through 36.94.440 shall not be reviewed by a boundary review board. [1984 c 147 § 5.]

Chapter 36.94

SEWERAGE, WATER AND DRAINAGE SYSTEMS

Sections

36.94.200 Indebtedness—Bonds.
36.94.410 Transfer of system from county to water or sewer district.
36.94.420 Transfer of system from county to water or sewer district—Annexation—Hearing—Public notice.
36.94.430 Transfer of system from county to water or sewer district—Alternative method.
36.94.440 Transfer of system from county to water or sewer district—Decree by superior court.

36.94.200 Indebtedness—Bonds. The legislative authority of any county is hereby authorized for the purpose of carrying out the lawful powers granted by this chapter to contract indebtedness and to issue and sell general obligation bonds pursuant to and in the manner provided for general county bonds in chapters 36.67 and 39.46 RCW and other applicable statutes; and

to issue revenue bonds pursuant to and in the manner provided for revenue bonds in chapter 36.67 RCW and other applicable statutes. The county legislative authority may also issue local improvement district bonds in the manner provided for cities and towns. [1984 c 186 § 35; 1983 c 167 § 101; 1981 c 313 § 2; 1967 c 72 § 20.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—1981 c 313: See note following RCW 36.94.020.

36.94.410 Transfer of system from county to water or sewer district. A system of sewerage, system of water or combined water and sewerage systems operated by a county under the authority of this chapter may be transferred from that county to a water or sewer district in the same manner as is provided for the transfer of those functions from a water or sewer district to a county in RCW 36.94.310 through 36.94.340. [1984 c 147 § 1.]

Annexation under RCW 36.94.410 through 36.94.440 not subject to boundary review board: RCW 36.93.105.

36.94.420 Transfer of system from county to water or sewer district—Annexation—Hearing—Public notice. If so provided in the transfer agreement, the area served by the system shall, upon completion of the transfer, be deemed annexed to and become a part of the water or sewer district acquiring the system. The county shall provide notice of the hearing by the county legislative authority on the ordinance executing the transfer agreement under RCW 36.94.330 as follows: (1) By mailed notice to all ratepayers served by the system at least fifteen days prior to the hearing; and (2) by notice in a newspaper of general circulation once at least fifteen days prior to the hearing. [1984 c 147 § 2.]

36.94.430 Transfer of system from county to water or sewer district—Alternative method. The provisions of RCW 36.94.410 and 36.94.420 provide an alternative method of accomplishing the transfer permitted by those sections and do not impose additional conditions upon the exercise of powers vested in water and sewer districts and counties. [1984 c 147 § 3.]

36.94.440 Transfer of system from county to water or sewer district—Decree by superior court. If the superior court finds that the transfer agreement authorized by RCW 36.94.410 is legally correct and that the interests of the owners of related indebtedness are protected, then the court by decree shall direct that the transfer be accomplished in accordance with the agreement. [1984 c 147 § 4.]

Title 38

MILITIA AND MILITARY AFFAIRS

Chapters

38.12 Militia officers and advisory council.

38.24 Claims and compensation.

38.40 Miscellaneous provisions.

38.52 Emergency management.

Chapter 38.12

MILITIA OFFICERS AND ADVISORY COUNCIL

Sections

38.12.090 Repealed.

38.12.170 Dismissal of officers—Review of officers' retention potential.

38.12.180 Retirement of officers.

38.12.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.12.170 Dismissal of officers—Review of officers' retention potential. The governor may dismiss any commissioned or warrant officer of the organized militia of Washington for any of the following reasons:

- (1) Conviction of an infamous crime;
- (2) Absence from his command for more than thirty days without proper leave;
- (3) Sentence of dismissal by court martial, duly approved;
- (4) Upon muster out of the organization to which the officer is then assigned;
- (5) Acceptance of the resignation of the officer, but no officer may be discharged or his resignation accepted while under arrest or against whom military charges have been preferred, or until he has turned over to his successor or satisfactorily accounted for all state and federal moneys and military property for which he is accountable or responsible;
- (6) Removal of his actual residence to such distance from the station of his command as to render it impracticable for him to perform the duties of his office;
- (7) Incompetence or unfitness for military service as determined by the duly approved findings of a board of inquiry appointed for that purpose by the adjutant general.

The adjutant general shall annually appoint and convene qualitative retention boards to review the military personnel records of officers who have completed three or more years service in the Washington state guard to determine their retention potential and acceptability for continuation in an active status. In the conduct of the reviews, the regulation issued by the adjutant general to implement this provision shall conform to the extent practicable to that governing the army national guard. [1984 c 198 § 1; 1943 c 130 § 31; 1925 ex.s. c 72 § 1; Rem. Supp. 1943 § 8603–31. Prior: 1917 c 107 § 28; 1909 c 134 § 39; 1895 c 108 § 63.]

38.12.180 Retirement of officers. Commissioned officers of the organized militia of Washington shall be retired by order of the commander-in-chief with the rank respectively held by them at the time of such retirement for the following reasons:

- (1) Unfitness for military service by reason of permanent physical disability.

(2) Upon request after at least five years continuous service as an officer in the organized militia of Washington.

Commissioned officers of the state guard shall upon reaching the age of sixty-four years be retired.

Retired officers shall draw no pay or allowance except when on active duty.

Retired officers are subject, with their consent, to temporary detail on active duty by the commander-in-chief, and while on such duty shall receive the same pay and allowances as officers of like rank on the active list. [1984 c 198 § 2; 1943 c 130 § 33; Rem. Supp. 1943 § 8603-33. Prior: 1909 c 134 § 40; 1895 c 108 § 66.]

Chapter 38.24

CLAIMS AND COMPENSATION

Sections

38.24.030	Repealed.
38.24.040	Repealed.
38.24.050	Pay of officers and enlisted personnel.
38.24.060	Employment and reemployment rights upon return from active duty.

38.24.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.24.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.24.050 Pay of officers and enlisted personnel. Commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington, while in active state service, are entitled to and shall receive the same amount of pay and allowances from the state of Washington as provided by federal laws and regulations for commissioned officers, warrant officers, and enlisted personnel of the United States army if federal pay and allowances are not authorized. Officers shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. For periods of such active state service, commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington shall receive either such pay and allowances or thirty dollars per day, whichever is greater.

The value of articles issued to any member and not returned in good order on demand, and legal fines or forfeitures, may be deducted from the member's pay.

All members detailed to serve on any board or commission ordered by the governor, or on any court of inquiry or court martial ordered by proper authority, may, at the discretion of the adjutant general, be paid a sum equal to one day's active duty for each day actually employed on the board or court or engaged in the business thereof, or in traveling to and from the same; and in addition thereto travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended when such duty is at a place other than the city or town of his residence.

Necessary transportation, quartermasters' stores, and subsistence for troops when ordered on state active duty

may be contracted for and paid for as are other military bills. [1984 c 198 § 3; 1975-'76 2nd ex.s. c 34 § 81; 1974 ex.s. c 46 § 1; 1943 c 130 § 43; Rem. Supp. 1943 § 8603-43. Prior: 1925 c 28 § 2, part; 1919 c 137 § 1, part; 1917 c 107 § 37, part; 1915 c 47 § 1, part; 1913 c 66 § 10, part; 1909 c 134 § 157, part; 1907 c 122 § 5, part; 1903 c 155 § 13, part; 1901 c 78 § 11, part; 1895 c 108 § 89, part.]

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

38.24.060 Employment and reemployment rights upon return from active duty. All members of the organized militia of Washington who are called to state active duty shall, upon return from such duty, have those rights accorded under RCW 73.16.031, 73.16.035, 73.16.041, 73.16.051, and 73.16.061. [1984 c 198 § 4; 1974 ex.s. c 46 § 2.]

Chapter 38.40

MISCELLANEOUS PROVISIONS

Sections

38.40.030	Compensation for death or disability.
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38.40.030 Compensation for death or disability. If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service as a member of the military force of the state, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments

and awards provided under the workmen's compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general and submitted to the governor for final approval. The reviewing officer or the governor may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the governor is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington. [1984 c 198 § 5; 1943 c 130 § 40; Rem. Supp. 1943 § 8603-40. Prior: 1923 c 49 § 3; 1917 c 107 § 38; 1909 c 134 § 60; 1895 c 108 § 92.]

Workers' compensation: Title 51 RCW.

Chapter 38.52

EMERGENCY MANAGEMENT

(Formerly: Emergency services)

Sections

- 38.52.005 Name changed to department of emergency management—Local organizations authorized to change name.
- 38.52.006 Repealed.
- 38.52.010 Definitions.
- 38.52.020 Declaration of policy and purpose.
- 38.52.030 Department of emergency management—Director—Comprehensive emergency management plan—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance.
- 38.52.035 Comprehensive emergency management plan—Submittal to legislature.
- 38.52.040 Emergency management council—Members.
- 38.52.050 Governor's general powers and duties.
- 38.52.060 Repealed.
- 38.52.070 Local organizations authorized—Joint establishment, operation—Emergency powers, procedures.
- 38.52.080 Outside aid—Rights and liabilities—Claims.
- 38.52.090 Mutual aid arrangements—Interstate civil defense and disaster compact—Interstate mutual aid compact.
- 38.52.100 Appropriations—Acceptance of funds, services, etc.
- 38.52.110 Use of existing services and facilities—Impressment of citizenry.
- 38.52.120 Political activity prohibited.
- 38.52.130 Repealed.
- 38.52.140 Status of civil service employee preserved.
- 38.52.150 Orders, rules, regulations—Enforcement—Availability—Penalty.
- 38.52.160 Matching funds from political subdivision may be required.
- 38.52.170 Plan for federal area.
- 38.52.180 Liability for property damage, bodily injury, death—Immunity—Assumption by state—Indemnification.
- 38.52.190 Compensation for injury or death—Chapter exclusive.
- 38.52.195 Exemption from liability while providing construction, equipment or work.
- 38.52.200 Liability for compensation is in lieu of other liability—Exception.
- 38.52.205 Claims arising from emergency management related activities—Filing—Contents.
- 38.52.207 Claims arising from emergency management related activities—Filing—Consideration, adjustment, settlement, etc., by director of emergency management—Effect.
- 38.52.210 Compensation boards—Established.
- 38.52.220 Compensation boards—Meetings—Claims not necessitating board meeting.
- 38.52.240 Compensation boards—Duties as to compensation applications.
- 38.52.250 Compensation boards—Quorum—Transmittal of minutes, claims—Appeal to department.
- 38.52.260 When compensation furnished.
- 38.52.270 Minors entitled to benefits.
- 38.52.280 Compensation and benefits limited by appropriation.
- 38.52.290 Applicability of workmen's compensation law.
- 38.52.300 Right of action against third party.
- 38.52.310 Coverage, classification, registration, of workers.
- 38.52.320 Schedule of payments.
- 38.52.330 Expenditures authorized—Claims, payment and disposition—Appeals.
- 38.52.340 Benefits under other compensation plans.
- 38.52.350 Benefits furnished under federal law—Reduction of state benefits.
- 38.52.360 Medical, surgical or hospital treatment.
- 38.52.370 Medical, surgical or hospital treatment—Reimbursement.
- 38.52.380 State compensation denied if payment prevents federal benefits.
- 38.52.390 Contracts or work on cost basis for emergency management activities.
- 38.52.400 Search and rescue activities—Powers and duties of local officials.
- 38.52.410 Search and rescue activities—Distribution of funds for compensation and reimbursement of volunteers.
- 38.52.900 Short title.

38.52.005 Name changed to department of emergency management—Local organizations authorized to change name. On and after July 1, 1984, the state department of emergency services shall be known and designated as the department of emergency management which shall administer the comprehensive emergency management program of the state of Washington as provided for in this chapter. All local organizations, organized and performing emergency management functions pursuant to RCW 38.52.070, may change their name and be called the _____ department/division of emergency management. [1984 c 38 § 1; 1972 ex.s. c 6 § 1.]

38.52.006 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.52.010 Definitions. As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local

authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person who is registered with a state or local emergency management organization and holds an identification card issued by the state or local emergency management director for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6) "Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which: (a) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (b) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural or man-made disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor.

(9) "Director" means the director of the state department of emergency management as established by this chapter.

(10) "Local director" means the director of a local organization of emergency management or emergency services. [1984 c 38 § 2; 1979 ex.s. c 268 § 1; 1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

38.52.020 Declaration of policy and purpose. (1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness as defined in RCW 38.52.010(6), and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state department of emergency management, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency management functions;

(d) To provide a means of compensating emergency management workers who may suffer any injury, as herein defined, or death; who suffer economic harm including personal property damage or loss; or who incur expenses for transportation, telephone or other methods of communication, and the use of personal supplies as a result of participation in emergency management activities; and

(e) To provide programs, with intergovernmental cooperation, to educate and train the public to be prepared for emergencies.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur. [1984 c 38 § 3; 1979 ex.s. c 268 § 2; 1975 1st ex.s. c 113 § 2; 1974 ex.s. c 171 § 5; 1967 c 203 § 2; 1953 c 223 § 1; 1951 c 178 § 2.]

38.52.030 Department of emergency management—Director—Comprehensive emergency management plan—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance.

(1) There is hereby created within the executive branch of the state government a department of emergency management. The department shall be headed by the director of emergency management. The director shall be appointed by the governor with the advice and consent of the senate; the director shall not hold any other state office; the director shall hold office at the pleasure of the governor, and shall be compensated at the rate established by the governor, subject to RCW 43.03.040.

(2) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(3) The director, subject to the direction and control of the governor, shall be the executive head of the department and shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of

all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(4) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural and man-caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(5) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(6) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(7) The director may appoint a communications coordinating committee consisting of six to eight persons with the director, or his designee, as chairman thereof. Three of the members shall be appointed from qualified, trained and experienced telephone communications administrators or engineers actively engaged in such work within the state of Washington at the time of appointment, and three of the members shall be appointed from qualified, trained and experienced radio communication administrators or engineers actively engaged in such work within the state of Washington at the time of appointment. This committee shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(8) The director shall appoint a state coordinator of search and rescue operations, who shall coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and who shall on request maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural or man-made disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: *Provided, however,* That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution. [1984 c 38 § 4; 1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

38.52.035 Comprehensive emergency management plan—**Submittal to legislature.** The director shall submit a copy of the comprehensive emergency management plan to the secretary of the senate, the chief clerk of the house of representatives, and the appropriate standing committees of both houses by January 1, 1985. The director shall submit any modifications of the plan to the legislature at the beginning of each legislative session. [1984 c 38 § 44.]

38.52.040 Emergency management council—**Members.** There is hereby created the emergency management council (hereinafter called the council), to consist of not less than seven nor more than fifteen members who shall be appointed by the governor. The council shall advise the governor and the director on all matters pertaining to emergency management. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, private industry, and local fire chiefs. The council members shall elect a chairman from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their 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. [1984 c 38 § 5; 1979 ex.s. c 57 § 8; 1975-'76 2nd ex.s. c 34 § 82; 1974 ex.s. c 171 § 6; 1951 c 178 § 5.]

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

38.52.050 Governor's general powers and duties. (1) The governor, through the director, shall have general supervision and control of the department of emergency management, and shall be responsible for the carrying out of the provisions of this chapter, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the emergency management functions within this state.

(2) In performing his duties under this chapter, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation.

(3) In performing his duties under this chapter and to effect its policy and purpose, the governor is further authorized and empowered:

(a) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the federal government;

(b) On behalf of this state, to enter into mutual aid arrangements with other states and territories, or provinces of the Dominion of Canada and to coordinate mutual aid plans between political subdivisions of this state;

(c) To delegate any administrative authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(d) To appoint, with the advice of local authorities, metropolitan or regional area coordinators, or both, when practicable;

(e) To cooperate with the president and the heads of the armed forces, the emergency management agency of the United States, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation. [1984 c 38 § 6; 1974 ex.s. c 171 § 7; 1951 c 178 § 6.]

38.52.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.52.070 Local organizations authorized—Joint establishment, operation—Emergency powers, procedures. (1) Each political subdivision of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program: *Provided*, That a political subdivision proposing such establishment shall submit its plan and program for emergency management to the state director of emergency management and secure his recommendations thereon, and certification for consistency with the state comprehensive emergency management plan, in order that the plan of the local organization for emergency management may be coordinated with the plan and program of the state. No political subdivision may be required to include in its plan provisions for the emergency evacuation or relocation of residents in anticipation of

nuclear attack. If the director's recommendations are adverse to the plan as submitted, and, if the local organization does not agree to the director's recommendations for modification to the proposal, the matter shall be referred to the council for final action. The director of emergency management may authorize two or more political subdivisions to join in the establishment and operation of a local organization for emergency management as circumstances may warrant, in which case each political subdivision shall contribute to the cost of emergency management upon such fair and equitable basis as may be determined upon by the executive heads of the constituent subdivisions. If in any case the executive heads cannot agree upon the proper division of cost the matter shall be referred to the council for arbitration and its decision shall be final. When two or more political subdivisions join in the establishment and operation of a local organization for emergency management each shall pay its share of the cost into a special pooled fund to be administered by the treasurer of the most populous subdivision, which fund shall be known as the ----- emergency management fund. Each local organization for emergency management shall have a director who shall be appointed by the executive head of the political subdivision, and who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such executive officer or officers. In the case of a jointly established and operated organization for emergency management, the director shall be appointed by the joint action of the executive heads of the constituent political subdivisions. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter.

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds. [1984 c 38 § 7; 1974 ex.s. c 171 § 9; 1951 c 178 § 8.]

38.52.080 Outside aid—Rights and liabilities—Claims. (1) Whenever the employees of any political subdivision are rendering outside aid pursuant to the authority contained in RCW 38.52.070 such employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivisions in which they are normally employed.

(2) The political subdivision in which any equipment is used pursuant to this section shall be liable for any loss or damage thereto and shall pay any expense incurred in the operation and maintenance thereof. No claim for such loss, damage, or expense shall be allowed unless, within sixty days after the same is sustained or incurred, an itemized notice of such claim under oath is served by mail or otherwise upon the executive head of such political subdivision where the equipment was used. The term "employee" as used in this section shall mean, and the provisions of this section shall apply with equal effect to, volunteer auxiliary employees, and emergency workers.

(3) The foregoing rights, privileges, and obligations shall also apply in the event such aid is rendered outside the state, provided that payment or reimbursement in such case shall or may be made by the state or political subdivision receiving such aid pursuant to a reciprocal mutual aid agreement or compact with such state or by the federal government. [1984 c 38 § 8; 1974 ex.s. c 171 § 10; 1951 c 178 § 9.]

38.52.090 Mutual aid arrangements—Interstate civil defense and disaster compact—Interstate mutual aid compact. (1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. The director of the department of emergency management shall adopt and distribute a standard form of contract for use by local organizations in understanding and carrying out said mutual aid arrangements.

(2) The director of the department of emergency management and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June

7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in

accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State 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 incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that

any two or more party States may enter into supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party State of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective

until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.

2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.

3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger.

4. The giving and receiving of aid by subdivisions of party States.

5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

INTERSTATE MUTUAL AID COMPACT

Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that overextends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.

2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.

3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.

4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, workmen's compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, workmen's compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact

to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. [1984 c 38 § 9; 1974 ex.s. c 171 § 11; 1951 c 178 § 10.]

38.52.100 Appropriations—Acceptance of funds, services, etc. (1) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management.

(2) Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the state, acting through the governor, or such political subdivision, acting with the consent of the governor and through its executive head, may accept such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(3) Whenever any person, firm, or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for the purposes of emergency management, the state, acting through the governor, or such political subdivision, acting through its executive head, may accept such offer and upon such acceptance the governor of the state or executive head of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer. [1984 c 38 § 10; 1974 ex.s. c 171 § 12; 1951 c 178 § 12.]

38.52.110 Use of existing services and facilities—Impressment of citizenry. (1) In carrying out the provisions of this chapter, the governor and the executive heads of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state, political subdivisions, and all other municipal corporations thereof including but not limited to districts and quasi municipal corporations organized under the laws of the state of Washington to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request notwithstanding any other provision of law.

(2) The governor, the chief executive of counties, cities and towns and the emergency management directors of local political subdivisions appointed in accordance with this chapter, in the event of a disaster, after proclamation by the governor of the existence of such disaster, shall have the power to command the service and equipment of as many citizens as considered necessary in the light of the disaster proclaimed: *Provided*, That citizens so commandeered shall be entitled during the period of such service to all privileges, benefits and immunities as are provided by this chapter and federal and state emergency management regulations for registered emergency workers. [1984 c 38 § 11; 1974 ex.s. c 171 § 13; 1971 ex.s. c 8 § 1; 1955 c 210 § 1; 1951 c 178 § 13.]

38.52.120 Political activity prohibited. No organization for emergency management established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes. [1984 c 38 § 12; 1974 ex.s. c 171 § 14; 1951 c 178 § 14.]

38.52.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

38.52.140 Status of civil service employee preserved. Any civil service employee of the state of Washington or of any political subdivision thereof while on leave of absence and on duty with any emergency management agency authorized under the provisions of this chapter shall be preserved in his civil service status as to seniority and retirement rights so long as he regularly continues to make the usual contributions incident to the retention of such beneficial rights as if he were not on leave of absence. [1984 c 38 § 13; 1974 ex.s. c 171 § 16; 1951 c 178 § 16.]

38.52.150 Orders, rules, regulations—Enforcement—Availability—Penalty. (1) It shall be the duty of every organization for emergency management established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this chapter. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the governor, or under his authority.

(2) Every violation of any rule, regulation or order issued under the authority of this chapter shall constitute a misdemeanor and shall be punishable as such: *Provided*, That whenever any person shall commit a second offense hereunder the same shall constitute a gross misdemeanor and shall be punishable as such. [1984 c 38 § 14; 1974 ex.s. c 171 § 17; 1951 c 178 § 18.]

38.52.160 Matching funds from political subdivision may be required. The emergency management agency is hereby authorized to require of any political subdivision to which funds are allocated under this chapter for any

project, use or activity that such subdivision shall provide matching funds in equal amounts with respect to such project, use or activity. [1984 c 38 § 15; 1974 ex.s. c 171 § 18; 1951 c 178 § 19.]

38.52.170 Plan for federal area. Whenever the state director of emergency management finds that it will be in the interest of the emergency management of this state or of the United States, he may, with the approval of the governor, agree with the federal government, or any agency thereof carrying on activities within this state, upon a plan of emergency management applicable to a federally owned area, which plan may or may not conform to all of the other provisions of this chapter with the view to integrating federally owned areas into the comprehensive plan and program of the emergency management of this state. Such plan may confer upon persons carrying out such plan any or all of the rights, powers, privileges and immunities granted employees or representatives of the state and/or its political subdivisions by this chapter. The plan of emergency management authorized under this section may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. [1984 c 38 § 16; 1974 ex.s. c 171 § 19; 1951 c 178 § 20.]

38.52.180 Liability for property damage, bodily injury, death—Immunity—Assumption by state—Indemnification. (1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of wilful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done, or attempted, under the color of this chapter in a bona fide attempt to comply therewith shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: *Provided*,

That the foregoing shall not be construed to result in indemnification in any case of wilful misconduct, gross negligence or bad faith on the part of any agent of emergency management: *Provided*, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

(4) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the workmen's compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress. [1984 c 38 § 17; 1974 ex.s. c 171 § 20; 1971 ex.s. c 8 § 2; 1953 c 145 § 1; 1951 c 178 § 11.]

38.52.190 Compensation for injury or death—Chapter exclusive. Except as provided in this chapter, an emergency worker and his dependents shall have no right to receive compensation from the state, from the agency, from the local organization for emergency management with which he is registered, or from the county or city which has empowered the local organization for emergency management to register him and direct his activities, for an injury or death arising out of and occurring in the course of his activities as an emergency worker. [1984 c 38 § 18; 1974 ex.s. c 171 § 21; 1953 c 223 § 3.]

38.52.195 Exemption from liability while providing construction, equipment or work. Notwithstanding any other provision of law, no person, firm, corporation, or other entity acting under the direction or control of the proper authority to provide construction, equipment, or work as provided for in RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 while complying with or attempting to comply with RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 or any rule or regulation promulgated pursuant to the provisions of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390 shall be liable for the death of or any injury to persons or damage to property as a result of any such activity: *Provided*, That said exemption shall only apply where all of the following conditions occur:

(1) Where, at the time of the incident the worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker;

(2) Where, at the time of the injury, loss, or damage, the organization for emergency management which the worker is assisting is an approved organization for emergency management;

(3) Where the injury, loss, or damage is proximately caused by his service either with or without negligence as an emergency worker;

(4) Where the injury, loss, or damage is not caused by the intoxication of the worker; and

(5) Where the injury, loss, or damage is not due to wilful misconduct or gross negligence on the part of a worker. [1984 c 38 § 19; 1974 ex.s. c 171 § 22; 1971 ex.s. c 8 § 7.]

38.52.200 Liability for compensation is in lieu of other liability—Exception. Liability for the compensation provided by this chapter, as limited by the provisions thereof, is in lieu of any other liability whatsoever to an emergency worker or his dependents or any other person on the part of the state, the agency, the local organization for emergency management with which the emergency worker is registered, and the county or city which has empowered the local organization for emergency management to register him and direct his activities, for injury or death arising out of and in the course of his activities while on duty as an emergency worker: *Provided*, That nothing in this chapter shall limit or bar the liability of the state or its political subdivisions engaged in proprietary functions as distinguished from governmental functions that may exist by reason of injury or death sustained by an emergency worker. [1984 c 38 § 20; 1974 ex.s. c 171 § 23; 1953 c 223 § 9.]

38.52.205 Claims arising from emergency management related activities—Filing—Contents. All claims against the state for property damages or indemnification therefor arising from emergency management related activities will be presented to and filed with the director of financial management. Contents of all such claims shall conform to the tort claim filing requirements found in RCW 4.92.100 as now or hereafter amended. [1984 c 38 § 21; 1979 c 151 § 43; 1977 ex.s. c 144 § 6; 1974 ex.s. c 171 § 24; 1971 ex.s. c 8 § 4.]

38.52.207 Claims arising from emergency management related activities—Filing—Consideration, adjustment, settlement, etc., by director of emergency management—Effect. The director of the state department of emergency management, with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise and settle property loss or damage claims arising out of conduct or circumstances for which the state of Washington would be liable in law for money damages of two thousand dollars or less. The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington. A request

for administrative settlement shall not preclude a claimant from filing court action pending administrative determination, or limit the amount recoverable in such a suit, or constitute an admission against interest of either the claimant or the state. [1984 c 38 § 22; 1974 ex.s. c 171 § 171 § 25; 1971 ex.s. c 8 § 5.]

38.52.210 Compensation boards—Established. (1) In each local organization for emergency management established by the legislative authority of the county in accordance with the provisions of RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of: (a) The county executive if the county has an elected county executive or, if it does not, one member of the county legislative authority selected by the authority. The executive or the member will serve as the chair of the compensation board; (b) the county director of emergency services; (c) the prosecuting attorney; (d) the emergency services coordinator for medical and health services; and (e) the county auditor who will serve as secretary of the compensation board.

(2) In each local organization for emergency management established by cities and towns in accordance with RCW 38.52.070, there is hereby created and established a compensation board for the processing of claims as provided in this chapter. The compensation board shall be composed of the mayor; the city director of emergency management; one councilmember or commissioner selected by the council or the commission; the city attorney or corporation counsel; and the local coordinator of medical and health services. The councilmember or commissioner so selected shall serve as the chair of the compensation board and the director of emergency management shall serve as secretary of the board. [1984 c 38 § 23; 1981 c 213 § 6; 1974 ex.s. c 171 § 26; 1953 c 223 § 4.]

38.52.220 Compensation boards—Meetings—Claims not necessitating board meeting. Said compensation board shall meet on the call of its chairman on a regular monthly meeting day when there is business to come before it. The chairman shall be required to call a meeting on any monthly meeting day when any claim for compensation under this chapter has been submitted to the board: *Provided*, That as to claims involving amounts of two thousand dollars or less, the local organization director shall submit recommendations directly to the state without convening a compensation board. [1984 c 38 § 24; 1971 ex.s. c 8 § 3; 1953 c 223 § 5.]

38.52.240 Compensation boards—Duties as to compensation applications. The compensation board shall hear and decide all applications for compensation under this chapter. The board shall submit its recommendations to the director of the department of emergency management on such forms as he may prescribe. In case the decision of the director is different from the recommendation of the compensation board, the matter

shall be submitted to the state emergency management council for action. [1984 c 38 § 25; 1974 ex.s. c 171 § 27; 1953 c 223 § 7.]

38.52.250 Compensation boards—Quorum—Transmittal of minutes, claims—Appeal to department. A majority of the compensation board shall constitute a quorum, and no business shall be transacted when a majority is not present, and no claim shall be allowed when a majority of the board has not voted favorably thereon. The board shall send a copy of the minutes of all meetings to the department of emergency management with copies of all material pertaining to each claim submitted and noting the action of the board on each claim. Appeals may be made by the emergency worker from any action by the board within one year by writing to the department of emergency management. [1984 c 38 § 26; 1974 ex.s. c 171 § 28; 1953 c 223 § 8.]

38.52.260 When compensation furnished. Compensation shall be furnished to an emergency worker either within or without the state for any injury arising out of and occurring in the course of his activities as an emergency worker, and for the death of any such worker if the injury proximately causes death, in those cases where the following conditions occur:

(1) Where, at the time of the injury the emergency worker is performing services as an emergency worker, and is acting within the course of his duties as an emergency worker.

(2) Where, at the time of the injury the local organization for emergency management with which the emergency worker is registered is an approved local organization for emergency management.

(3) Where the injury is proximately caused by his service as an emergency worker, either with or without negligence.

(4) Where the injury is not caused by the intoxication of the injured emergency worker.

(5) Where the injury is not intentionally self-inflicted. [1984 c 38 § 27; 1974 ex.s. c 171 § 29; 1953 c 223 § 10.]

38.52.270 Minors entitled to benefits. Emergency workers who are minors shall have the same rights as adults for the purpose of receiving benefits under the provisions of this chapter, but this provision shall not prevent the requirements that a guardian be appointed to receive and administer such benefits until the majority of such minor. Work as an emergency worker shall not be deemed as employment or in violation of any of the provisions of chapter 49.12 RCW. [1984 c 38 § 28; 1974 ex.s. c 171 § 30; 1953 c 223 § 11.]

38.52.280 Compensation and benefits limited by appropriation. No compensation or benefits shall be paid or furnished to emergency workers or their dependents pursuant to the provisions of this chapter except from money appropriated for the purpose of this chapter. [1984 c 38 § 29; 1974 ex.s. c 171 § 31; 1953 c 223 § 12.]

38.52.290 Applicability of workmen's compensation law. Insofar as not inconsistent with the provisions of this chapter, the maximum amount payable to a claimant shall be not greater than the amount allowable for similar disability under the workmen's compensation act, chapter 51.32 RCW *as amended by this 1971 amendatory act and any amendments thereto. "Employee" as used in said title shall include an emergency worker when liability for the furnishing of compensation and benefits exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of said sections of chapter 51.32 RCW and at the maximum rate provided therein, subject, however, to the limitations set forth in this chapter. [1984 c 38 § 30; 1974 ex.s. c 171 § 32; 1971 ex.s. c 289 § 71; 1953 c 223 § 13.]

*Reviser's note: "as amended by this 1971 amendatory act" refers to the 1971 ex.s. c 289 amendments to RCW 51.32.010, 51.32.015, 51.32.020, 51.32.040, 51.32.050, 51.32.055, 51.32.060, 51.32.070, 51.32.073, 51.32.080, 51.32.090, 51.32.095, 51.32.100, 51.32.110, 51.32.140, 51.32.180, 51.32.190, and 51.32.200.

Severability—Effective dates—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

38.52.300 Right of action against third party. If the injury to an emergency worker is due to the negligence or wrong of another not on emergency duty, the injured worker, or if death results from the injury, the surviving spouse, children, parents or dependents, as the case may be, shall elect whether to take under this chapter or seek a remedy against such other, such election to be in advance of any suit under this chapter; and if the surviving spouse takes under this chapter, the cause of action against such other shall be assigned to the department of emergency management; if the other choice is made, the compensation under this chapter shall be only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated for such case under authority of this chapter: *Provided*, That the department of emergency management shall prosecute all claims assigned to it and do any and all things necessary to recover on behalf of the state any and all amounts which an employer or insurance carrier might recover under the provisions of the law. [1984 c 38 § 31; 1973 1st ex.s. c 154 § 59; 1953 c 223 § 14.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

38.52.310 Coverage, classification, registration, of workers. The department of emergency management shall establish by rule and regulation various classes of emergency workers, the scope of the duties of each class, and the conditions under which said workers shall be deemed to be on duty and covered by the provisions of this chapter. The department shall also adopt rules and regulations prescribing the manner in which emergency workers of each class are to be registered. [1984 c 38 § 32; 1974 ex.s. c 171 § 33; 1953 c 223 § 15.]

38.52.320 Schedule of payments. The department of emergency management shall provide each compensation board with the approved maximum schedule of payments for injury or death prescribed in chapter 51.32 RCW: *Provided*, That nothing in this chapter shall be construed as establishing any liability on the part of the department of labor and industries. [1984 c 38 § 33; 1974 ex.s. c 171 § 34; 1953 c 223 § 16.]

38.52.330 Expenditures authorized—Claims, payment and disposition—Appeals. The department of emergency management is authorized to make all expenditures necessary and proper to carry out the provisions of this chapter including payments to claimants for compensation as emergency workers and their dependents; to adjust and dispose of all claims submitted by a local compensation board. When medical treatment is necessary, the department of emergency management is authorized to make medical and compensation payments on an interim basis. Nothing herein shall be construed to mean that the department of emergency management or the state emergency management council or its officers or agents shall have the final decision with respect to the compensability of any case or the amount of compensation or benefits due, but any emergency worker or his dependents shall have the same right of appeal from any order, decision, or award to the same extent as provided in chapter 51.32 RCW *as amended by this 1971 amendatory act. [1984 c 38 § 34; 1979 ex.s. c 268 § 3; 1974 ex.s. c 171 § 35; 1971 ex.s. c 289 § 72; 1953 c 223 § 17.]

*Reviser's note: "as amended by this 1971 amendatory act", see note following RCW 38.52.290.

Severability—Effective dates—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

38.52.340 Benefits under other compensation plans. Nothing in this chapter shall deprive any emergency worker or his dependents of any right to compensation for injury or death sustained in the course of his regular employment even though his regular work is under direction of emergency management authorities: *Provided*, That such worker, if he is eligible for some other compensation plan, and receives the benefits of such plan shall not also receive any compensation under this chapter. The department of emergency management shall adopt such rules and regulations as may be necessary to protect the rights of such workers and may enter into agreements with authorities in charge of other compensation plans to insure protection of such workers: *Provided*, That if the compensation from some other plan is less than would have been available under this chapter, he shall be entitled to receive the deficiency between the amount received under such other plan and the amount available under this chapter. [1984 c 38 § 35; 1974 ex.s. c 171 § 36; 1953 c 223 § 18.]

38.52.350 Benefits furnished under federal law—Reduction of state benefits. Should the United States or any agent thereof, in accordance with any federal statute

or rule or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to emergency workers or to their dependents for injuries arising out of and occurring in the course of their activities as emergency workers, then the amount of compensation which any emergency worker or his dependents are otherwise entitled to receive from the state of Washington as provided herein, shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the emergency worker or his dependents have received and will receive from the United States or any agent thereof as a result of his injury. [1984 c 38 § 36; 1974 ex.s. c 171 § 37; 1953 c 223 § 19.]

38.52.360 Medical, surgical or hospital treatment. If, in addition to monetary assistance, benefits or other temporary or permanent relief, the United States or any agent thereof furnishes medical, surgical or hospital treatment or any combination thereof to an injured emergency worker, then the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter. However, the department of emergency management may furnish medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter. [1984 c 38 § 37; 1974 ex.s. c 171 § 38; 1953 c 223 § 20.]

38.52.370 Medical, surgical or hospital treatment—Reimbursement. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States or any agent thereof, will reimburse an emergency worker or his dependents for medical, surgical or hospital treatment, or any combination thereof, furnished to the injured emergency worker, the emergency worker has no right to receive similar medical, surgical or hospital treatment as provided in this chapter, but the department of emergency management, may furnish a medical, surgical or hospital treatment as part of the compensation provided under the provisions of this chapter and apply to the United States or its agent for the reimbursement which will be made to the emergency worker or his dependents. As a condition to the furnishing of such medical, surgical or hospital treatment, the department shall require the emergency worker and his dependents to assign to the state of Washington, for the purpose of reimbursing for any medical, surgical or hospital treatment furnished or to be furnished by the state, any claim or right such emergency worker or his dependents may have to reimbursement from the United States or any agent thereof. [1984 c 38 § 38; 1974 ex.s. c 171 § 39; 1953 c 223 § 21.]

38.52.380 State compensation denied if payment prevents federal benefits. If the furnishing of compensation under the provisions of this chapter to an emergency worker or his dependents prevents such emergency worker or his dependents from receiving assistance, benefits or other temporary or permanent relief under the provisions of a federal statute or rule or regulation, then

the emergency worker and his dependents shall have no right to, and shall not receive, any compensation from the state of Washington under the provisions of this chapter for any injury for which the United States or any agent thereof will furnish assistance, benefits or other temporary or permanent relief in the absence of the furnishing of compensation by the state of Washington. [1984 c 38 § 39; 1974 ex.s. c 171 § 40; 1953 c 223 § 22.]

38.52.390 Contracts or work on cost basis for emergency management activities. The governor, or upon his direction, the state emergency management director, or any political subdivision of the state, is authorized to contract with any person, firm, corporation, or entity to provide construction or work on a cost basis to be used in emergency management functions or activities as defined in RCW 38.52.010(1) or as hereafter amended, said functions or activities to expressly include natural disasters, as well as all other emergencies of a type contemplated by RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390. All funds received for purposes of RCW 38.52.110, 38.52.180, 38.52.195, 38.52.205, 38.52.207, 38.52.220 and 38.52.390, whether appropriated funds, local funds, or from whatever source, may be used to pay for the construction, equipment, or work contracted for under this section. [1984 c 38 § 40; 1971 ex.s. c 8 § 6.]

38.52.400 Search and rescue activities—Powers and duties of local officials. (1) The chief law enforcement officer of each political subdivision shall be responsible for local search and rescue activities. Operation of search and rescue activities shall be in accordance with state and local operations plans adopted by the elected governing body of each local political subdivision. The local emergency management director shall notify the state department of emergency management of all search and rescue missions. The local director of emergency management shall work in a coordinating capacity directly supporting all search and rescue activities in that political subdivision and in registering emergency search and rescue workers for employee status. The chief law enforcement officer of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by him. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. No unauthorized person shall interfere with a search and rescue mission.

(2) When search and rescue activities result in the discovery of a deceased person or search and rescue workers assist in the recovery of human remains, the chief law enforcement officer of the political subdivision shall insure compliance with chapter 68.08 RCW. [1984 c 38 § 41; 1979 ex.s. c 268 § 4.]

38.52.410 Search and rescue activities—Distribution of funds for compensation and reimbursement of volunteers. Funds received by the department of emergency

management specifically for the purposes of compensating search and rescue volunteers shall be distributed by the director of emergency management to help fund medical and compensation coverage provided by this chapter and provide reimbursement by the state for: (1) Costs involved in extraordinary search and rescue operations such as search and rescue operations lasting over twenty-four hours where food and lodging for workers is necessary; (2) excessive transportation and rescue costs incurred by out-of-county residents which would not be otherwise collectible; and (3) compensation as provided in RCW 38.52.020(1)(d) as now or hereafter amended. [1984 c 38 § 42; 1979 ex.s. c 268 § 5.]

38.52.900 Short title. This chapter may be cited as the Washington Emergency Management Act. [1984 c 38 § 43; 1974 ex.s. c 171 § 41; 1951 c 178 § 1.]

Title 39 PUBLIC CONTRACTS AND INDEBTEDNESS

Chapters

- 39.06 Public works—Registration, licensing, of contractors.**
- 39.08 Contractor's bond.**
- 39.36 Limitation of indebtedness of taxing districts.**
- 39.44 Bonds—Form, terms of sale, payment, etc.**
- 39.46 Bonds—Issuance—Registration of ownership.**
- 39.52 Funding indebtedness in counties, cities and towns.**
- 39.53 Refunding bond act.**
- 39.58 Public funds—Deposits and investments—Public depositaries.**
- 39.84 Industrial development revenue bonds.**

Chapter 39.06

PUBLIC WORKS—REGISTRATION, LICENSING, OF CONTRACTORS

Sections

- 39.06.010** Contracts with unregistered or unlicensed contractors prohibited.

39.06.010 Contracts with unregistered or unlicensed contractors prohibited. No agency of the state or any of its political subdivisions may execute a contract with any contractor who is not registered or licensed as may be required by the laws of this state other than contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance. [1984 c 7 § 43; 1967 c 70 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Construction building permits—Cities, towns or counties prohibited from issuing without proof of registration: RCW 18.27.110.

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Chapter 39.08 CONTRACTOR'S BOND

Sections

- 39.08.090** Ferry construction—Amount of contractor's bond.

39.08.090 Ferry construction—Amount of contractor's bond. The contractor's bond required by chapter 39.08 RCW in connection with any negotiated contract for the construction of one or more ferry vessels for the Washington state ferries shall be in an amount to be specified by the state department of transportation in the request for proposal provided for in RCW 47.60.650. In no event shall the bond be for more than twenty-five percent of the total contract price of two or more ferry vessels nor more than fifty percent of the total contract price for a single vessel. In determining and fixing the amount of the bond the department may take into account the financial resources required of all firms that prequalify to construct ferry vessels for the Washington state ferries, the number of vessels that may be constructed, and the time period in which the vessels are to be constructed. [1984 c 7 § 44; 1977 ex.s. c 166 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1977 ex.s. c 166: See note following RCW 47.60.650.

Chapter 39.36

LIMITATION OF INDEBTEDNESS OF TAXING DISTRICTS

Sections

- 39.36.015** "Value of the taxable property" defined.
- 39.36.050** Ballot proposition authorizing indebtedness—Excess property tax levies.

39.36.015 "Value of the taxable property" defined. Whenever used in *this 1970 amendatory act, the term "value of the taxable property" shall mean the actual value of the taxable property in a taxing district incurring indebtedness, as the term "taxing district" is defined in RCW 39.36.010, to be ascertained by the last assessment for state and county purposes previous to the incurring of such indebtedness except that in incorporated cities the assessment shall be taken from the last assessment for city purposes, plus the timber assessed value for the district as defined in RCW 84.33.035. [1984 c 204 § 15; 1970 ex.s. c 42 § 1.]

***Reviser's note:** The phrase "this 1970 amendatory act" refers to chapter 42, Laws of 1970 ex. sess., which amended RCW 39.36.015, 27.12.070, 27.12.222, 28A.47.801, 28A.51.010, 28A.51.020, 28A.58.550, 35.37.040, 35.58.450, 35.61.100, 35.61.110, 35A.40.090, 36.67.010, 36.67.020, 36.68.520, 36.69.140, 36.76.010, 36.76.080, 37.16.010, 37.16.020, 39.28.030, 39.30.010, 39.36.020, 47.57.530, 52.08.080, 52.16.080, 53.08.030, 53.36.030, 54.24.018, 56.16.050, 57.20.110, 57.20.120, 88.32.230, 89.30.400, 89.30.403 and 86.05.920.

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Severability—1970 ex.s. c 42: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1970 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 42 § 41.]

Effective date—1970 ex.s. c 42: "The effective date of this 1970 amendatory act is November 1, 1970." [1970 ex.s. c 42 § 42.]

39.36.050 Ballot proposition authorizing indebtedness—Excess property tax levies. The governing body of a taxing district desiring to place a ballot proposition authorizing indebtedness before the voters may submit the proposition at any special election held on the dates authorized in chapter 29.13 RCW. The ballot proposition shall include the maximum amount of the indebtedness to be authorized, the maximum term any bonds may have, a description of the purpose or purposes of the bond issue, and whether excess property tax levies authorized under RCW 84.52.056 will be authorized.

When it is required that such bonds be retired by excess property tax levies, or when the governing body desires such bonds be retired by excess property tax levies, the ballot proposition shall also include authorization for such excess bond retirement property tax levies provided under RCW 84.52.056.

Notice of the proposed election shall be published as required by RCW 29.27.080. [1984 c 186 § 3.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 39.44

BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.

Sections

- 39.44.010 through 39.44.060 Repealed.
- 39.44.080 Repealed.
- 39.44.090 Repealed.

39.44.010 through 39.44.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

39.44.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

39.44.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 39.46

BONDS—ISSUANCE—REGISTRATION OF OWNERSHIP

Sections

- 39.46.110 Local government general obligation bonds—Indebtedness—Payment.
- 39.46.120 Notice of intent to sell general obligation bonds.

39.46.110 Local government general obligation bonds—Indebtedness—Payment. (1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are

subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge therefor to meet the payments of principal and interest on said bonds as they come due.

(3) General obligation bonds issued as physical instruments shall be executed in the manner determined by the governing body or legislative body of the issuer.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections. [1984 c 186 § 2.]

Purpose—1984 c 186: "The purpose of this 1984 act is to provide simplified and uniform authorities for various local governments to issue and sell general obligation bonds. It is not the purpose of this 1984 act to alter the indebtedness limitation of local governments." [1984 c 186 § 1.]

39.46.120 Notice of intent to sell general obligation bonds. Notice of intent to sell general obligation bonds at a public sale shall be provided in a reasonable manner as determined by the legislative authority or governing body of the issuer. [1984 c 186 § 4.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 39.52

FUNDING INDEBTEDNESS IN COUNTIES, CITIES AND TOWNS

Sections

- 39.52.010 Issuance of funding bonds authorized.
- 39.52.020 Limitations on issuance of bonds.
- 39.52.030 Repealed.
- 39.52.050 "Corporate authorities" defined.

39.52.010 Issuance of funding bonds authorized. Any county, city or town in the state of Washington which now has or may hereafter have an outstanding indebtedness evidenced by warrants or bonds, including warrants or bonds of any city or town which are special fund obligations of and constitute a lien upon the waterworks or

other public utilities of such city or town, and are payable only from the income or funds derived or to be derived therefrom, whether issued originally within the limitations of the Constitution of this state, or of any law thereof, or whether such outstanding indebtedness has been or may hereafter be validated or legalized in the manner prescribed by law, may, by its corporate authorities, provide by ordinance or resolution for the issuance of funding bonds with which to take up and cancel such outstanding indebtedness in the manner hereinafter described, said bonds to constitute general obligations of such county, city or town: *Provided*, That special fund obligations payable only from the income funds of the public utility, shall not be refunded by the issuance of general municipal bonds where voter approval is required before general municipal bonds may be issued for such public utility purposes, unless such general municipal bonds shall have been previously authorized. Nothing in this chapter shall be so construed as to prevent any such county, city or town from funding its indebtedness as now provided by law. [1984 c 186 § 36; 1917 c 145 § 1; 1895 c 170 § 1; RRS § 5617.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.52.020 Limitations on issuance of bonds. No bonds issued under this chapter shall be issued for a longer period than twenty years. Nothing in this chapter shall be deemed to authorize the issuing of any funding bonds which exceeds any constitutional or statutory limitations of indebtedness. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 37; 1983 c 167 § 113; 1970 ex.s. c 56 § 60; 1969 ex.s. c 232 § 31; 1895 c 170 § 2; RRS § 5619.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Purpose—1970 ex.s. c 56: "Because market conditions are such that the state, state agencies, state colleges and universities, and the political subdivisions, municipal corporations and quasi municipal corporations of this state are finding it increasingly difficult and, in some cases, impossible to market bond issues and all other obligations, at the maximum permissible rate of interest payable on such bonds and obligations, it is the purpose of this 1970 amendatory act to remove all maximum rates of interest payable on such bonds and obligations." [1970 ex.s. c 56 § 1; 1969 ex.s. c 232 § 1.] This applies to RCW 8.12-400, 14.08.112, 14.08.114, 17.28.260, 27.12.223, 28A.51.180, 28A.52-050, 28A.52.055, 28B.10.310, 28B.10.315, 28B.10.325, 28B.20.396, 28B.20.715, 28B.20.730, 28B.30.730, 28B.30.760, 28B.40.730, 28B-40.770, 28B.50.350, 28B.50.390, 35.41.030, 35.45.020, 35.45.130, 35-45.150, 35.58.450, 35.58.460, 35.58.470, 35.61.170, 35.67.080, 35.67.140, 35.81.100, 35.82.140, 35.89.020, 35.92.080, 35.92.100, 36-62.070, 36.67.530, 36.67.560, 36.76.010, 36.76.090, 36.76.140, 36.88-200, 37.16.020, 37.16.030, 39.44.030, 39.48.010, 39.52.020, 39.56.020, 43.21.340, 47.56.140, 47.57.550, 47.58.040, 47.60.060, 52.16.061, 52-16.100, 52.20.060, 53.34.030, 53.34.040, 53.34.060, 53.39.030, 53.40-030, 53.40.110, 53.40.130, 53.44.020, 54.24.018, 54.24.060, 54.24.090, 56.16.040, 56.16.060, 56.16.080, 57.20.010, 57.20.020, 70.44.060, 70-44.120, 85.05.300, 85.05.480, 85.06.270, 85.06.321, 85.07.070, 85.16-180, 86.09.580, 86.09.598, 87.03.200, 87.19.030, 87.22.150, 87.22.160, 87.28.020, 87.28.070, 88.32.140, 89.30.418, 89.30.520, 91.04.490, and 91.08.480.

Validation—**Saving**—1969 ex.s. c 232: "All bonds, the issuance of which was authorized or ratified at a general or special election held within the issuing jurisdiction prior to the effective date of this amendatory act or the proposition for the issuance of which will be submitted at such an election pursuant to action of the legislative authority of

the issuer taken prior to the effective date of this amendatory act, may be sold and issued with an interest rate or rates greater than any interest rate restriction contained in the ballot proposition or ordinance or resolution relating to such authorization or ratification if such bonds are sold and issued with an interest rate or rates not greater than those permitted by the applicable provision of this amendatory act." [1969 ex.s. c 232 § 94.]

Severability—1969 ex.s. c 232: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this 1969 amendatory act, such judgment or decree shall not affect, impair or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this act so adjudged to be invalid or unconstitutional." [1969 ex.s. c 232 § 95.]

Bonds, form, terms of sale, payment, etc.: Chapter 39.44 RCW.

39.52.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

39.52.050 "Corporate authorities" defined. The words "corporate authorities", used in this chapter, shall be held to mean the county legislative authority, or the council or commission of the city or town. [1984 c 186 § 38; 1895 c 170 § 6; RRS § 5623.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 39.53

REFUNDING BOND ACT

Sections

39.53.010	Definitions.
39.53.045	Bonds payable from special assessments—Not subject to refunding.

39.53.010 Definitions. Except where the context otherwise requires, the terms defined in this section shall for all purposes have the meanings herein specified:

(1) "Governing body" means the council, commission, board of commissioners, board of directors, board of trustees, board of regents, or other legislative body of the public body designated herein in which body the legislative powers of the public body are vested: *Provided*, That with respect to the state it shall mean the state finance committee.

(2) "Public body" means the state of Washington, its agencies, institutions, political subdivisions, and municipal and quasi municipal corporations now or hereafter existing under the laws of the state of Washington.

(3) "Bond" means any revenue bond or general obligation bond.

(4) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and which is payable from designated revenues, special assessments, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation.

(5) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(6) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing one year or more from the date of the advance refunding bonds.

(7) "Issuer" means the public body issuing any bond or bonds.

(8) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the public body exercising any power hereunder takes formal action and adopts legislative provisions and matters of some permanency.

(9) "Government obligations" means any of the following: (a) Direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by such obligations; (b) bonds, debentures, notes, participation certificates, or other obligations issued by the banks for cooperatives, the federal intermediate credit bank, the federal home loan bank system, the export–import bank of the United States, federal land banks, or the federal national mortgage association; (c) public housing bonds and project notes fully secured by contracts with the United States; and (d) obligations of financial institutions insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation, to the extent insured or to the extent guaranteed as permitted under any other provision of state law.

(10) Words used herein importing singular or plural number may be construed so that one number includes both. [1984 c 186 § 68; 1973 1st ex.s. c 25 § 1; 1965 ex.s. c 138 § 2.]

Purpose—1984 c 186: See note following RCW 39.46.110.

39.53.045 Bonds payable from special assessments—Not subject to refunding. Bonds payable solely from special assessments or special assessments and a guaranty fund issued on or prior to June 7, 1984, shall not be subject to refunding under this chapter. [1984 c 186 § 69.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 39.58

PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

Sections	
39.58.010	Definitions.
39.58.020	Public funds—Protection against loss.
39.58.040	General powers of commission.
39.58.050	Collateral for deposits—Segregation—Eligible securities.
39.58.080	Deposit of public funds in qualified public depository required.
39.58.090	Authority to secure deposits in accordance with chapter—Bonds and securities for deposits dispensed with.
39.58.100	Reports of public depositories—Certification of segregation.
39.58.108	Requirements to become qualified depository.
39.58.130	Investment deposits—Net worth of depository.
39.58.135	Limitations on deposits.

39.58.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Public funds" means moneys under the control of a treasurer or custodian belonging to, or held for the benefit of, the state or any of its political subdivisions, municipal corporations, agencies, courts, boards, commissions, or committees, including moneys held as trustee, agent, or bailee;

(2) "Qualified public depository," "public depository," or "depository" means a financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has been approved by the commission to hold public deposits, and which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability. Addition of the word "bank" denotes a bank, trust company, or national banking association and the word "thrift" denotes a savings and loan association, mutual savings bank, or stock savings bank;

(3) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction (a) restraining a qualified public depository from making payments of deposit liabilities or (b) appointing a receiver for a qualified public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means securities which are enumerated in RCW 39.58.050(5) and (6) as eligible collateral for public deposits;

(6) The "maximum liability" of a qualified public depository on any given date means a sum equal to ten percent of (a) all public deposits held by the qualified public depository on the then most recent commission report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments paid to the commission pursuant to this chapter since the then most recent commission report date;

(7) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means time deposits and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and the custodian of any other public funds;

(10) "Financial institution" means a branch of a bank engaged in banking in this state in accordance with RCW 30.04.300, and any state bank or trust company, national banking association, stock savings bank, mutual savings bank, or savings and loan association located in this state and lawfully engaged in business;

(11) "Commission report" means a formal accounting rendered by all qualified public depositories to the commission in response to a demand for specific information made upon all depositories by the commission detailing

pertinent affairs of each depository as of the close of business on a specified date, which is the "commission report date." "Commission report due date" is the last day for the timely filing of a commission report;

(12) "Supervisor" means either the supervisor of banks or the supervisor of savings and loan associations or both depending upon context and usage in accordance with applicable statutory authority;

(13) "Net worth" of a depository means (a) for a bank depository, the aggregate of capital, surplus, undivided profits and all capital notes and debentures which are subordinate to the interest of depositors, and (b) for a thrift depository, the aggregate of such capital stock, guaranty fund, general reserves, surplus, undivided profits, and capital notes and debentures which are subordinate to the interest of depositors, as are eligible for inclusion in otherwise determining the net worth of a mutual savings bank, stock savings bank, or savings and loan association. [1984 c 177 § 10; 1983 c 66 § 3; 1977 ex.s. c 95 § 1; 1975 1st ex.s. c 77 § 1; 1973 c 126 § 9; 1969 ex.s. c 193 § 1.]

Reviser's note: Throughout chapter 39.58 RCW, the phrase "this 1969 amendatory act" has been changed to "this chapter." "This 1969 amendatory act" [1969 ex.s. c 193] consists of the enactment of RCW 39.58.010 through 39.58.140, the amendment of RCW 35.38.010 through 35.38.040, 36.29.020, 36.48.010, 36.48.020, 43.85.010, 43.85.030, 43.85.040, 43.85.060, 43.85.070, 43.85.150, 43.85.170, 43.85.190, and the repeal of RCW 35.38.070 through 35.38.110, 36.48.030, 36.48.100 through 36.48.150, 43.85.050, and 43.85.080 through 43.85.120.

Severability—1983 c 66: "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 66 § 24.]

Severability—1969 ex.s. c 193: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 193 § 32.]

Construction—1969 ex.s. c 193: "Nothing in this act shall be construed so as to impair the obligation of any contract or agreement entered into prior to its effective date." [1969 ex.s. c 193 § 33.]

City depositories: Chapter 35.38 RCW.

County depositories: Chapter 36.48 RCW.

State depositories: Chapter 43.85 RCW.

39.58.020 Public funds—Protection against loss. All public funds deposited in qualified public depositories, including investment deposits and accrued interest thereon, shall be protected against loss, as provided in this chapter. [1984 c 177 § 11; 1983 c 66 § 5; 1973 c 126 § 10; 1969 ex.s. c 193 § 2.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.040 General powers of commission. The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any qualified public depository to furnish such information dealing with public deposits and the exact status of its net worth as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a qualified public depository and shall be excluded from the right to

receive or hold public deposits until such time as the commission shall acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of financial institutions as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a qualified public depository to repay public deposits in full; (6) in case loss occurs in more than one qualified public depository, to determine the allocation and time of payment of any sums due to public depositors under this chapter. [1984 c 177 § 12; 1983 c 66 § 7; 1975 1st ex.s. c 77 § 2; 1969 ex.s. c 193 § 4.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.050 Collateral for deposits—Segregation—Eligible securities. (1) Every qualified public depository shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability and as otherwise prescribed in this chapter. Such collateral may be segregated by deposit in the trust department of the depository or in such other manner as the commission approves and shall be clearly designated as security for the benefit of public depositors under this chapter.

(2) Securities eligible as collateral shall be valued at market value.

(3) The depository shall have the right to make substitutions of such collateral at any time.

(4) The income from the securities which have been segregated as collateral shall belong to the depository without restriction.

(5) Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Bonds, notes, or other securities constituting direct and general obligations of the United States or the bonds, notes, or other securities constituting the direct and general obligation of any instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States, and bonds, notes, letters of credit, or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or federal reserve bank;

(b) (i) Direct and general obligation bonds and warrants of the state of Washington or of any other state of the United States;

(ii) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

(c) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of any state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(d) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(e) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;

(6) In addition to the securities enumerated in subsections (5)(a) through (e) of this section, every public depository may also segregate such bonds, securities, and other obligations as are designated to be authorized security for all public deposits pursuant to RCW 35.58-.510, 35.81.110, 35.82.220, 39.60.030, 39.60.040 and 54.24.120, as now or hereafter amended.

(7) The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so. [1984 c 177 § 13; 1983 c 66 § 8; 1975 1st ex.s. c 77 § 3; 1973 c 126 § 11; 1969 ex.s. c 193 § 5.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.080 Deposit of public funds in qualified public depository required. Except for funds deposited pursuant to a fiscal agency contract with the state fiscal agent or its correspondent bank, no public funds shall be deposited in demand or investment deposits except in a qualified public depository located in this state or as otherwise expressly permitted by statute. [1984 c 177 § 14; 1983 c 66 § 11; 1969 ex.s. c 193 § 8.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.090 Authority to secure deposits in accordance with chapter—Bonds and securities for deposits dispensed with. All institutions located in this state which are permitted by the statutes of this state to hold and receive public funds shall have power to secure such deposits in accordance with this chapter. Except as provided in this chapter, no bond or other security shall be required of or given by any qualified public depository for any public funds on deposit. [1984 c 177 § 15; 1969 ex.s. c 193 § 9.]

39.58.100 Reports of public depositories—Certification of segregation. On or before each commission report due date, each depository shall render to the commission a written report, certified under oath, indicating the total amount of public funds on deposit held by it on the commission report date and the amount and nature of eligible collateral then segregated for the benefit of the commission.

The commission may instruct the supervisor to examine and thereafter certify as to the accuracy of any

statement as to the segregation of securities by any public depository. [1984 c 177 § 16; 1983 c 66 § 12; 1969 ex.s. c 193 § 10.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.108 Requirements to become qualified depository. Any financial institution may become a qualified depository upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. Until such time as depositories have submitted four consecutive reports to the commission as required by RCW 39.58.100, they shall at all times pledge and segregate eligible securities in an amount equal to not less than ten percent of all public funds on deposit in said depository. [1984 c 177 § 17; 1983 c 66 § 15; 1975 1st ex.s. c 77 § 6.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.130 Investment deposits—Net worth of depository. A treasurer as defined in RCW 39.58.010 is authorized to deposit in investment deposits in a qualified public depository any public funds available for investment and secured by collateral in accordance with the provisions of this chapter, and receive interest thereon. The authority provided by this section is additional to any authority now or hereafter provided by law for the investment or deposit of public funds by any such treasurer: *Provided*, That in no case shall the deposit or deposits of public funds by any such treasurer in any one qualified public depository exceed at any time the net worth of that depository. If a depository's net worth is reduced, a treasurer may allow public funds on deposit in excess of the reduced net worth to remain until maturity upon pledging by the depository of eligible securities valued at market value in an amount at least equal to the amount of the excess deposits. The collateral shall be segregated as provided in RCW 39.58.050. If the additional securities required by this section are not pledged by the depository, the depository shall permit withdrawal prior to maturity by the treasurer of deposits, including accrued interest, in accordance with applicable statutes and governmental regulations. [1984 c 177 § 18; 1983 c 66 § 16; 1969 ex.s. c 193 § 13.]

Severability—1983 c 66: See note following RCW 39.58.010.

39.58.135 Limitations on deposits. Notwithstanding RCW 39.58.130, (1) aggregate deposits received by a qualified public depository from all public treasurers shall not exceed at any time three hundred percent of the value of the depository's net worth as of the close of business of the most recent calendar quarter, nor (2) shall the aggregate deposits received by any qualified public depository exceed thirty percent of the total aggregate deposits of all public treasurers in all depositories as determined by the public deposit protection commission. However, a qualified public depository may receive deposits in excess of the limits provided in this section if eligible securities, as prescribed in RCW 39.58.050, are pledged as collateral in an amount equal to

one hundred percent of the value of deposits received in excess of the limitations prescribed in this section. [1984 c 177 § 19.]

Chapter 39.84

INDUSTRIAL DEVELOPMENT REVENUE BONDS

Sections

39.84.200 Authority of community economic revitalization board under this chapter.

39.84.200 Authority of community economic revitalization board under this chapter. The community economic revitalization board under chapter 43.160 RCW shall have all the powers of a public corporation under this chapter. To the extent applicable, all duties of a public corporation apply to the community economic revitalization board in exercising its powers under this chapter. [1984 c 257 § 11.]

Title 40

PUBLIC DOCUMENTS, RECORDS AND PUBLICATIONS

Chapters

40.14 Preservation and destruction of public records.

Chapter 40.14

PRESERVATION AND DESTRUCTION OF PUBLIC RECORDS

Sections

40.14.200 Memorial honoring state residents who died or are missing-in-action in southeast Asia.
40.14.205 Memorial honoring state residents who died or are missing-in-action in southeast Asia—Advisory committee.
40.14.210 Memorial honoring state residents who died or are missing-in-action in southeast Asia—Display of individual names.

40.14.200 Memorial honoring state residents who died or are missing-in-action in southeast Asia. The secretary of state shall coordinate the design, construction, and placement of a memorial within the state capitol building honoring Washington state residents who died or are "missing-in-action" in the southeast Asia theater of operations. [1984 c 81 § 1.]

40.14.205 Memorial honoring state residents who died or are missing-in-action in southeast Asia—Advisory committee. An advisory committee composed of the secretary of state, the state archivist, the director of the department of veterans affairs or the director's designee, the director of the department of general administration or the director's designee, and two representatives of state veterans organizations, one appointed by the speaker of the house of representatives and one appointed by the president of the senate, shall

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approve the design and placement of the memorial before construction begins. [1984 c 81 § 2.]

40.14.210 Memorial honoring state residents who died or are missing-in-action in southeast Asia—Display of individual names. The memorial authorized by RCW 40.14.200 through 40.14.210 shall display the individual names of the Washington state residents who died or are "missing-in-action" in the southeast Asia theater of operations. [1984 c 81 § 3.]

Title 41

PUBLIC EMPLOYMENT, CIVIL SERVICE AND PENSIONS

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Chapter 41.04

GENERAL PROVISIONS

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41.04.005 "Veteran" defined for certain purposes. As used in RCW 41.04.005, 41.04.010, 41.16.220, and 41.20.050 "veteran" includes every person, who at the time he seeks the benefits of RCW 28B.40.361, 41.04.005, 41.04.010, 41.16.220, 41.20.050, 41.40.170, 73.04.110, or 73.08.080 has received an honorable discharge or received a discharge for physical reasons with an honorable record and: (1) Has served in any branch of the armed forces of the United States between World War I and World War II or during any period of war; or (2) has served in any branch of the armed forces of the United States and has received the armed forces expeditionary medal, or Marine Corps and Navy expeditionary medal, for opposed action on foreign soil. A "period of war" includes World War I, World War II, the Korean conflict, the Viet Nam era, and the period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress. The "Viet Nam era" means the period beginning August 5, 1964, and ending on May 7, 1975. [1984 c 36 § 1; 1983 c 230 § 1; 1982 1st ex.s. c 37 § 20; 1969 ex.s. c 269 § 1.]

Effective date—1983 c 230: "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 c 230 § 3.]

Effective date—Severability—1982 1st ex.s. c 37: See notes following RCW 28B.15.012.

41.04.260 Committee for deferred compensation—Created—Membership—Travel expenses—Fiduciary duties—Deferred compensation revolving fund, investment—Annual report. (1) There is hereby created a committee for deferred compensation to be composed of five members appointed by the governor, one of whom shall be a representative of an employee association or union certified as an exclusive representative of at least one bargaining unit of classified employees, one who shall be a representative of either a credit union, savings and loan association, mutual savings bank or bank, one who possesses expertise in the area of insurance or investment of public funds, one who shall be the state attorney general or his designee, and one additional member selected by the governor. The committee shall serve without compensation but shall receive travel expenses as provided for in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The deferred compensation revolving fund is hereby created in the state treasury. All expenses of the committee including staffing and administrative expenses shall be paid out of the deferred compensation revolving fund.

The amount of compensation deferred by employees under agreements entered into under the authority contained in RCW 41.04.250 shall be paid into the revolving fund and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by this committee. The revolving fund shall be used to carry out the purposes of RCW 41.04.250. All eligible state employees shall be given the opportunity to participate in agreements entered into by the committee under RCW 41.04.250. State agencies shall cooperate with the committee in providing employees with the opportunity to participate. Any county, municipality, or other subdivision of the state may elect to participate in any agreements entered into by the committee under RCW 41.04.250, including the making of payments therefrom to the employees participating in a deferred compensation plan upon their separation from state or other qualifying service. Accordingly, the revolving fund shall be considered to be a public pension or retirement fund within the meaning of Article XXIX, section 1 of the state Constitution, for the purpose of determining eligible investments and deposits of the moneys therein. All moneys in the revolving fund, all property and rights purchased therewith, and all income attributable thereto, shall remain (until made available to the participating employee or other beneficiary) solely the money, property, and rights of the state and participating counties, municipalities and subdivisions (without being restricted to the provision of benefits under the plan) subject only to the claims of the state's and participating jurisdictions' general creditors. Participating jurisdictions shall each retain property rights separately.

(3) The state investment board, at the request of the deferred compensation committee, is authorized to invest moneys in the deferred compensation revolving fund in accordance with RCW 43.84.150. Except as provided in RCW 43.33A.160, one hundred percent of all earnings from these investments shall accrue directly to the deferred compensation revolving fund.

(4) The deferred compensation committee shall keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any deferred compensation plans created under RCW 41.04.250 through 41.04.260.

The deferred compensation committee shall file an annual report of the financial condition, transactions, and affairs of the deferred compensation plans under the committee's jurisdiction. A copy of the annual report shall be filed with the speaker of the house of representatives, the president of the senate, the governor, and the state auditor.

(5) Members of the deferred compensation committee shall be deemed to stand in a fiduciary relationship to the employees participating in the deferred compensation plans created under RCW 41.04.250 through 41.04.260 and shall discharge the duties of their respective positions in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

(6) The committee may adopt rules necessary to carry out the purposes of RCW 41.04.250 and 41.04.260.

[1984 c 242 § 1; 1983 c 226 § 1; 1981 c 256 § 3; 1975-'76 2nd ex.s. c 34 § 84; 1975 1st ex.s. c 274 § 1.]

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

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

41.04.345 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.04.370 Child day care—Legislative intent. The legislature recognizes that on-site child day care for employees of public and private organizations is a worthwhile pursuit. To further the goals of affordable, accessible, and quality child care for working parents, the legislature intends to establish a self-supporting child care demonstration project for employees of state government. The legislature recognizes that appropriate child day care services may enhance productivity and lower absenteeism among state employees. [1984 c 162 § 1.]

41.04.375 Child day care—Rental of suitable space. The department of general administration shall identify an amount of suitable space in state-owned or state-leased buildings in the Olympia area for use as child day care centers for the children of state employees.

The department of general administration shall establish a fair rental rate for the organization to pay for the space used. [1984 c 162 § 2.]

41.04.380 Child day care—Needs assessment—Contract. (1) The department of personnel shall conduct a needs assessment to determine the need for and interest in child day care facilities for the children of state employees;

(2) The department of personnel shall determine the number of children which may participate in the demonstration project required under RCW 41.04.370 through 41.04.380; and

(3) If the suitable space is determined to be available, the department of personnel shall contract with one or more organizations to operate child day care facilities for the children identified under this section. Such facilities may be located in one or more buildings as identified under RCW 41.04.375. [1984 c 162 § 3.]

41.04.400 Consolidation of local governmental unit and first class city retirement system—Intent. It is the purpose of RCW 41.04.405 through 41.04.430 to govern the retirement rights of persons whose employment status is altered when: (1) Two or more units of local government of this state, at least one of which is a first class city with its own retirement system, enter into an agreement for the consolidated performance of a governmental service, activity, or undertaking; (2) the service, activity, or undertaking is to be performed either by one of the participating local governmental units or by a newly established separate legal entity; and (3) the employees of the participating local governmental units are

not all members of the same Washington public retirement system.

RCW 41.04.405 through 41.04.430 are not intended to and do not govern retirement rights of any members of the retirement systems established by chapter 41.16, 41.18, 41.20, or 41.26 RCW, or of employees described in RCW 35.58.265, 35.58.390, or 70.08.070. To the extent there is any conflict between RCW 41.04.405 through 41.04.430 and RCW 41.04.110, the provisions of RCW 41.04.405 through 41.04.430 shall govern. [1984 c 184 § 22.]

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

41.04.405 Consolidation of local governmental unit and first class city retirement system—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.400 through 41.04.430.

(1) "Legal entity" means any political subdivision or municipal corporation of the state, including but not limited to public agencies created under RCW 35.63-070, 36.70.060, or 39.34.030.

(2) "Consolidated employer" means the legal entity assigned by agreement to perform a governmental service, activity, or undertaking for two or more units of local government of the state, at least one of which is a first class city with its own retirement system.

(3) "Existing employee" means a person who both (a) becomes employed by the consolidated employer within one year after the consolidation and (b) was employed by one of the combining legal entities at the time of the consolidation.

(4) "New employee" means an employee of the consolidated employer who is not an existing employee.

(5) "Active member" means a member of a retirement system who was making contributions to that retirement system at the time of the consolidation. [1984 c 184 § 23.]

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

41.04.410 Consolidation of local governmental unit and first class city retirement system—Membership in public employees' retirement system. If a consolidated employer is a participating member in the public employees' retirement system under chapter 41.40 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the public employees' retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of a first class city retirement system under chapter 41.28 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the public employees' retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or

within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the first class city retirement system, thereby forever waiving any rights under the public employees' retirement system based upon employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the public employees' retirement system may be established under this section. [1984 c 184 § 24.]

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

41.04.415 Consolidation of local governmental unit and first class city retirement system—Membership in first class city retirement system. If a consolidated employer is a city operating a first class city retirement system under chapter 41.28 RCW prior to the consolidation:

(1) All existing employees of the consolidated employer who are active members of the first class city retirement system immediately prior to the consolidation shall continue to be members of that retirement system while employed by the consolidated employer.

(2) All existing employees of the consolidated employer who are active members of the public employees' retirement system under chapter 41.40 RCW immediately prior to the consolidation shall cease to be members of that system at the time of the consolidation and, if eligible, shall immediately become members of the first class city retirement system. However, any such active member may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue to be a member of the public employees' retirement system, thereby forever waiving any rights under the first class city retirement system based upon such employment with the consolidated employer.

(3) Only prospective periods of qualifying service under the first class city retirement system may be established under this section. [1984 c 184 § 25.]

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

41.04.420 Consolidation of local governmental unit and first class city retirement system—Newly created legal entity. If a consolidated employer is a newly created legal entity and does not immediately join the public employees' retirement system pursuant to RCW 41.40.410:

(1) All existing employees of the consolidated employer who are active members of a first class city retirement system or the public employees' retirement system immediately prior to the consolidation shall cease to be members of these systems. However, any such active members may, by a writing filed with the consolidated employer within thirty days after the consolidation or within thirty days after March 15, 1984, whichever is later, irrevocably elect instead to continue as members of the retirement system to which they belonged at the time of the consolidation for all periods of employment with the consolidated employer.

(2) If the consolidated employer later joins the public employees' retirement system, all existing employees still employed on that date shall, effective from that date, have the same retirement system rights and options, subject to the same conditions as employees governed by RCW 41.04.410, notwithstanding any previous election under subsection (1) of this section.

(3) No new employees of the consolidated employer may become members of an employer-sponsored retirement system until such time as the employer joins the public employees' retirement system pursuant to RCW 41.40.410. [1984 c 184 § 26.]

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

41.04.425 Consolidation of local governmental unit and first class city retirement system—Limitations. Notwithstanding any provision of RCW 41.04.410, 41.04.415, or 41.04.420:

(1) No person may simultaneously accrue any contractual rights whatsoever in more than one Washington public retirement system as a consequence of employment by a consolidated employer.

(2) No person who makes a written election permitted by RCW 41.04.410, 41.04.415, or 41.04.420 may receive a retirement allowance from such retirement system under any circumstances while employed or reemployed by the consolidated employer.

(3) No person may accrue any benefits or rights under any Washington public retirement system as a result of RCW 41.04.410, 41.04.415, or 41.04.420 except such rights of continuing membership that are specifically and explicitly granted by RCW 41.04.410, 41.04.415, or 41.04.420.

(4) Nothing in RCW 41.04.400 through 41.04.425 is intended to constitute an amendment or waiver of any law or rule of any Washington public retirement system, including but not limited to those governing eligibility for service credit, benefits, or membership, except to broaden the class of legal entities that are deemed to be participating employers in the retirement systems in the specific circumstances stated in RCW 41.04.410, 41.04.415, and 41.04.420. [1984 c 184 § 27.]

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

41.04.430 Consolidation of local governmental unit and first class city retirement system—Compliance with laws and rules—Application of sections. (1) Consolidated employers that employ persons governed by RCW 41.04.410, 41.04.415, or 41.04.420 shall comply with all laws and rules governing the retirement system in which the persons participate as members, including but not limited to the obligations to make employer contributions, to deduct and transmit employee contributions, and to submit required reports.

(2) RCW 41.04.410, 41.04.415, 41.04.420, and 41.04.425 govern any consolidation occurring on or after December 31, 1981. [1984 c 184 § 28.]

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

41.04.440 Members' retirement contributions—Payment by employer—Purpose—Benefits not contractual right. (1) The sole purpose of RCW 41.04.445 and 41.04.450 is to allow the members of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40 and 43.43 RCW to enjoy the tax deferral benefits allowed under 26 USC 414(h). *This act does not alter in any manner the provisions of RCW 41.26.450, 41.32.775 and 41.40.650 which require that the member contribution rates shall be set so as to provide fifty percent of the costs of the respective retirement plans.

(2) Should the legislature revoke any benefit allowed under *this act, no affected employee shall be entitled thereafter to receive such benefit as a matter of contractual right. [1984 c 227 § 1.]

***Reviser's note:** "This act" consists of RCW 41.04.440, 41.04.445, 41.04.450, and the notes following this section.

Effective date—1984 c 227: "This act shall take effect on September 1, 1984." [1984 c 227 § 4.]

Conflict with federal requirements—1984 c 227: "If any part of this act is found to be in conflict with federal requirements, the conflicting part of the 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 the act in its application: *Provided*, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner. The rules under this act shall meet federal requirements." [1984 c 227 § 6.]

Severability—1984 c 227: "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: *Provided*, That the employee proportional contributions required under RCW 41.26.450, 41.32.775 and 41.40.650 may not be altered in any manner." [1984 c 227 § 7.]

41.04.445 Members' retirement contributions—Payment by employer—Implementation. (1) This section applies to all members without exception who are:

(a) Judges under the retirement system established under chapter 2.10 or 2.12 RCW;

(b) Employees of the state under the retirement system established by chapter 41.40 or 43.43 RCW;

(c) Employees of school districts under the retirement system established by chapter 41.32 or 41.40 RCW;

(d) Employees of educational service districts under the retirement system established by chapter 41.32 or 41.40 RCW; or

(e) Employees of community college districts under the retirement system established by chapter 41.32 or 41.40 RCW.

(2) Only for compensation earned after the effective date of the implementation of this section and as provided by section 414(h) of the federal internal revenue code, the employer of all the members specified in subsection (1) of this section shall pay only those member contributions as required under:

- (a) RCW 2.10.090(1);
- (b) RCW 2.12.060;
- (c) RCW 41.32.260(2);
- (d) RCW 41.32.350;
- (e) RCW 41.32.775;
- (f) RCW 41.40.330(1);
- (g) RCW 41.40.650; and
- (h) RCW 43.43.300.

(3) Only for the purposes of federal income taxation, the gross income of the member shall be reduced by the amount of the contribution to the respective retirement system paid by the employer.

(4) All member contributions to the respective retirement system paid by the employer as provided by this section, plus the accrued interest earned thereon, shall be paid to the member upon the withdrawal of funds or lump-sum payment of accumulated contributions as provided under the provisions of the retirement systems.

(5) At least forty-five days prior to implementing this section, the employer shall provide:

(a) A complete explanation of the effects of this section to all members; and

(b) Notification of such implementation to the director of the department of retirement systems. [1984 c 227 § 2.]

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

41.04.450 Members' retirement contributions—Payment by employer—Optional implementation and withdrawal. (1) Employers of those members under chapters 41.26 and 41.40 RCW who are not specified in RCW 41.04.445 may choose to implement the employer payment of all member contributions without exception under RCW 41.26.080(1), 41.26.450, 41.40.330(1), and 41.40.650. If the employer does so choose, the employer and members shall be subject to the same conditions and limitations of RCW 41.04.445.

(2) An employer exercising the option under this section may further choose to withdraw from and/or reestablish the provisions of RCW 41.04.445 only once in a calendar year following forty-five days prior notice to the director of the department of retirement systems. [1984 c 227 § 3.]

Effective date—Conflict with federal requirements—Severability—1984 c 227: See notes following RCW 41.04.440.

41.04.800 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 5.]

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

Chapter 41.05

STATE EMPLOYEES' INSURANCE AND HEALTH CARE

Sections	
41.05.025	State employees' insurance board—Created—Membership—Meetings—Compensation and travel expenses—Powers and duties. (Effective July 1, 1985.)
41.05.050	Contributions for employees and dependents—Survey of group insurance programs.
41.05.110	Chapter not applicable to officers and employees of state convention and trade center.

41.05.025 State employees' insurance board—Created—Membership—Meetings—Compensation and travel expenses—Powers and duties. (Effective July 1, 1985.) (1) There is hereby created a state employees' insurance board to be composed of the members of the present board holding office on the day prior to July 1, 1977, which such members shall serve until the expiration of the period of time of the term for which they were appointed and until their successors are appointed and qualified. Thereafter the board shall be composed as follows: The governor or the governor's designee; one administrative officer representing all of higher education to be appointed by the governor; two higher education faculty members to be appointed by the governor; the director of the department of personnel who shall act as trustee; one representative of an employee association certified as an exclusive representative of at least one bargaining unit of classified employees and one representative of an employee union certified as exclusive representative of at least one bargaining unit of classified employees, both to be appointed by the governor; one person who is retired and is covered by a program under the jurisdiction of the board, to be appointed by the governor; one member of the senate who shall be appointed by the president of the senate; and one member of the house of representatives who shall be appointed by the speaker of the house. The terms of office of the administrative officer representing higher education, the two higher education faculty members, the representative of an employee association, the retired person, and the representative of an employee union shall be for four years: *Provided*, That the first term of one faculty member and one employee association or union representative member shall be for three years. Meetings of the board shall be at the call of the director of personnel. The board shall prescribe rules for the conduct of its business and shall elect a chairman and vice chairman annually. Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be paid for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060, and legislative members shall receive allowances provided for in RCW 44.04.120.

(2) The board shall study all matters connected with the providing of adequate health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any one of, or a combination of, the enumerated types of insurance and health care plans for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state: *Provided*, That liability insurance shall not be made available to dependents. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids, determine the terms and conditions of employee participation and coverage, and decide on the award of contracts which shall be signed by the trustee on behalf of the board: *Provided*, That all contracts for insurance, health care plans, including panel medicine plans, or protection applying to employees covered by RCW 28B.10.660 and chapters 41.04 and 41.05 RCW

shall provide that the beneficiaries of such insurance, health care plans, or protection may utilize on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW: *Provided further*, That the boards of trustees and boards of regents of the several institutions of higher education shall retain sole authority to provide liability insurance as provided in RCW 28B.10.660. The board shall from time to time review and amend such plans. Contracts for all plans shall be rebid and awarded at least every five years.

(3) The board shall develop and provide as a part of the employee insurance benefit program an employee health care benefit plan which may be provided through a contract or contracts with regularly constituted insurance carriers or health care service contractors as defined in chapter 48.44 RCW, and a plan to be provided by a panel medicine plan in its service area only when approved by the board. The board may but shall not be required to pay more for health benefits under a panel medicine plan than it would otherwise be required to pay for health benefits by a contract with a regularly constituted insurance carrier or health care service contractor in effect at the time the panel medicine plan is included in the employee health care benefit plan. Except for panel medicine plans, the board may but is not required to contract with more than one insurance carrier or health care service contractor to provide similar benefits: *Provided*, That employees may choose participation in only one of the health care benefit plans sponsored by the board. Active employees, as defined in RCW 41.05.010(2), eligible for medicare benefits shall have the option of continuing participation in health care programs on the same basis as all other employees or participation in medicare supplemental programs as may be developed by the board. These health care benefit plans shall provide coverage for all officials and employees and their dependents without premium or subscription cost to the individual employees and officials, unless the board approves a panel medicine plan at a subscription rate in excess of the premium of the regularly constituted insurance carrier or health care service contractor, in which circumstances an employee contribution may be authorized at an amount equal to such excess. Rates for self pay segments of state employee groups will be developed from the experience of the entire group. Such self pay rates will be established based on a separate rate for the employee, the spouse, and children.

(4) The board shall review plans proposed by insurance carriers who desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by carriers holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans. [1984 c 287 § 68; 1983 c 3 § 91; 1982 1st ex.s. c 34 § 1; 1980 c 120 § 2; 1979 c 125 § 1; 1977 ex.s. c 136 § 2.]

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

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.005.

41.05.050 Contributions for employees and dependents—Survey of group insurance programs. (1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the state employees insurance board. Such contributions, which shall be paid by the county, the municipality, or other political subdivision for their employees, shall include an amount determined by the state employee's insurance board to pay the administrative expenses of the board and the salaries and wages and expenses of the benefits supervisor and other necessary personnel: *Provided*, That this administrative service charge for state employees shall not result in an employer contribution in excess of the amount authorized by the governor and the legislature as prescribed in RCW 41.05.050(2), and that the sum of an employee's insurance premiums and administrative service charge in excess of such employer contribution shall be paid by the employee. All such contributions will be paid into the state employees insurance fund to be expended in accordance with RCW 41.05.030.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the state employees insurance board, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose: *Provided*, That provision for school district personnel shall not be made under this chapter: *Provided further*, That insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(3) The trustee with the assistance of the department of personnel shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance programs under the jurisdiction of the state employees insurance board. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the board for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter. The board shall transmit a recommendation for the amount of the employer contribution to the governor and the director of financial management for inclusion in the proposed budgets submitted to the legislature. [1984 c 107 § 1; 1983 c 15 § 20; 1983 c 2 § 9. Prior: 1982 1st ex.s. c 34 § 2; 1981 c 344 § 6; 1979 c 151 § 55; 1977 ex.s. c 136 § 4; 1975-'76 2nd ex.s. c 106 § 4; 1975 1st ex.s. c 38 § 2; 1973 1st ex.s. c 147 § 3; 1970 ex.s. c 39 § 5.]

Severability—1983 c 15: See RCW 47.64.910.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1981 c 344: See note following RCW 47.60.326.

Effective date—Conditions prerequisite to implementing sections—1977 ex.s. c 136: See note following RCW 41.05.005.

Effective date—Effect of veto—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.010.

41.05.110 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 3.]

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

Chapter 41.06

STATE CIVIL SERVICE LAW

Sections

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41.06.070 Exemptions—Right of reversion to civil service status. The provisions of this chapter do not apply to:

(1) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature;

(2) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

(5) Elective officers of the state;

(6) The chief executive officer of each agency;

(7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;

(8) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(a) All members of such boards, commissions, or committees;

(b) If the members of the board, commission, or committee serve on a part time basis and there is a statutory

executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;

(c) If the members of the board, commission, or committee serve on a full time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;

(d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;

(9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(10) Assistant attorneys general;

(11) Commissioned and enlisted personnel in the military service of the state;

(12) Inmate, student, part time, or temporary employees, and part time professional consultants, as defined by the state personnel board or the board having jurisdiction;

(13) The public printer or to any employees of or positions in the state printing plant;

(14) Officers and employees of the Washington state fruit commission;

(15) Officers and employees of the Washington state apple advertising commission;

(16) Officers and employees of the Washington state dairy products commission;

(17) Officers and employees of the Washington tree fruit research commission;

(18) Officers and employees of the Washington state beef commission;

(19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(23) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: *Provided, however,* That rules and regulations adopted by the state personnel board pursuant to RCW 41.06-.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(24) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(25) All employees of the marine employees' commission;

(26) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred seventy-five for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted pursuant to the provisions of this subsection, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (10) through (22) of this section, shall be determined by the state personnel board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one extension of no more than four years; and (b) if an

appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. [1984 c 210 § 2; 1983 c 15 § 21; 1982 1st ex.s. c 53 § 2; 1981 c 225 § 2; 1980 c 87 § 14; 1973 1st ex.s. c 133 § 1; 1972 ex.s. c 11 § 1. Prior: 1971 ex.s. c 209 § 1; 1971 ex.s. c 59 § 1; 1971 c 81 § 100; 1969 ex.s. c 36 § 23; 1967 ex.s. c 8 § 47; 1961 c 179 § 1; 1961 c 1 § 7 (Initiative Measure No. 207, approved November 8, 1960).]

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

Severability—1983 c 15: See RCW 47.64.910.

Severability—1982 1st ex.s. c 53: See note following RCW 41.06.020.

Effective date—Severability—1969 ex.s. c 36: See RCW 28B.16.920 and 28B.16.930.

Severability—1967 ex.s. c 8: See RCW 28B.50.910.

State agencies and departments—Certain personnel exempted from chapter

arts commission: RCW 43.46.045.

board of examiners for nursing home administrators: RCW 18.52.060.

center for voluntary action: RCW 43.150.040.

council for postsecondary education: RCW 28B.80.080.

council for the prevention of child abuse and neglect: RCW 43.121.040.

department of

agriculture: RCW 41.06.084.

corrections: RCW 41.06.071.

ecology: RCW 41.06.073.

general administration, supervisor of motor transport: RCW 43.19.585.

retirement systems: RCW 41.50.070.

services for the blind: RCW 74.18.050.

social and health services: RCW 41.06.076, 43.20A.090.

transportation: RCW 41.06.079.

veterans affairs: RCW 41.06.077.

economic and revenue forecast supervisor and staff: RCW 41.06.087.

energy office: RCW 41.06.081, 43.21F.035.

gambling commission: RCW 9.46.080.

hospital commission: RCW 70.39.060.

judicial qualifications commission: RCW 2.46.050.

law revision commission: RCW 41.06.083.

medical disciplinary board: RCW 18.72.155.

Office of

administrative hearings: RCW 34.12.030.

financial management: RCW 41.06.075, 43.41.080.

minority and women's business enterprises: RCW 39.19.030.

personnel appeals board: RCW 41.64.050.

state actuary: RCW 44.44.030.

state advisory council on vocational education: RCW 28C.04.310.

state health coordinating council: RCW 70.38.045.

state investment board: RCW 43.33A.100.

state lottery commission: RCW 67.70.050.

state school directors' association: RCW 41.06.086.

state treasurer: RCW 43.08.120.

state veterinarian: RCW 41.06.084.

superintendent of public instruction: RCW 28A.03.020.

Washington state patrol, drug control assistance unit: RCW 43.43.640.

world fair commission: RCW 41.06.085.

41.06.087 Economic and revenue forecast supervisor and staff exempted from chapter. In addition to the exemptions set forth in RCW 41.06.070, this chapter does not apply to the economic and revenue forecast supervisor and staff employed under RCW 82.01.120. [1984 c 138 § 2.]

41.06.110 Personnel board—Created—Term—Qualifications, conditions—Compensation,

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travel expenses—Officers, quorum, records. (Effective July 1, 1985.) (1) There is hereby created a state personnel board composed of three members appointed by the governor, subject to confirmation by the senate. The first such board shall be appointed within thirty days after December 8, 1960, for terms of two, four, and six years. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director of personnel shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals until December 31, 1982. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts. [1984 c 287 § 69; 1982 c 10 § 8. Prior: 1981 c 338 § 20; 1981 c 311 § 16; 1977 c 6 § 2; prior: 1975-'76 2nd ex.s. c 43 § 1; 1975-'76 2nd ex.s. c 34 § 86; 1961 c 1 § 11 (Initiative Measure No. 207, approved November 8, 1960).]

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

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 311: See RCW 41.64.910.

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

Appointment and compensation of institutional chaplains: RCW 72.01.210.

Personnel appeals board: Chapter 41.64 RCW.

41.06.280 Department of personnel service fund—Created—Charges to agencies, payment—Use, disbursement. There is hereby created a fund within the state treasury, designated as the "Department of Personnel Service Fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter and chapter 41.60 RCW. An

amount not to exceed one percent of the approved allotments of salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher learning, shall be charged to the operations appropriations of each agency and credited to the department of personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the department with funds to meet its anticipated expenditures during the allotment period.

The director of personnel shall fix the terms and charges for services rendered by the department of personnel pursuant to RCW 41.06.080, which amounts shall be credited to the department of personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a quarterly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a quarterly basis to the state treasurer and deposited by him in the department of personnel service fund.

Moneys from the department of personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1984 c 7 § 45; 1982 c 167 § 13; 1963 c 215 § 1; 1961 c 1 § 28 (Initiative Measure No. 207, approved November 8, 1960).]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1982 c 167: See note following RCW 41.60.015.

Chapter 41.14

CIVIL SERVICE FOR SHERIFF'S OFFICE

Sections

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| 41.14.120 | Removal, suspension, demotion, or discharge—Procedure—Appeal. |
| 41.14.130 | Filling vacancies in classified service—Eligibility list—Probation. |

41.14.120 Removal, suspension, demotion, or discharge—Procedure—Appeal. No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted, or discharged except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, discharged, or demoted may within ten days from the time of his removal, suspension, discharge, or demotion file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. Upon receipt of the written demand for an investigation, the commission shall within ten days set a date for a public hearing which will be held within thirty days from the date of receipt. The investigation shall be confined to the determination of the

question of whether the removal, suspension, demotion, or discharge was made in good faith for cause. After such investigation the commission shall render a written decision within ten days and may affirm the removal, suspension, demotion, or discharge, or if it finds that removal, suspension, demotion, or discharge was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was removed, suspended, demoted, or discharged, which reinstatement shall, if the commission so provides, be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, demotion, or discharge. The commission upon such investigation, in lieu of affirming a removal, suspension, demotion, or discharge, may modify the order by directing the removal, suspension, demotion, or discharge without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to this section shall be by public hearing, after reasonable notice to the accused of the time and place thereof, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If order of removal, suspension, demotion, or discharge is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, demotion, or discharge made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the supreme court or the court of appeals. [1984 c 199 § 1; 1982 c 133 § 1; 1971 c 81 § 102; 1959 c 1 § 12 (Initiative Measure No. 23, approved November 4, 1958).]

41.14.130 Filling vacancies in classified service—Eligibility list—Probation. Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. Before a requisition can be made, the appointing authority shall give employees of the appointing authority who are in layoff status or who have been notified of an intended layoff an opportunity

to qualify for any class within the office of the appointing authority. The commission shall certify the names of the three persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the three persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint a person from those certified to the vacant position.

To enable the appointing power to exercise a greater degree of choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person appointed, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems such person unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall again requisition the commission for the names and addresses of persons eligible for appointment in the manner provided by this section and the person appointed in the manner provided by this section shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete. [1984 c 199 § 2; 1979 ex.s. c 153 § 4; 1959 c 1 § 13 (Initiative Measure No. 23, approved November 4, 1958).]

Chapter 41.24

VOLUNTEER FIREMEN'S RELIEF AND PENSIONS

Sections

41.24.270 State board for volunteer firemen—Compensation—Travel expenses. (Effective July 1, 1985.)

41.24.270 State board for volunteer firemen—Compensation—Travel expenses. (Effective July 1, 1985.) Each member of the state board shall be compensated in accordance with RCW 43.03.240. Each member shall also receive travel expenses, including going to and from meetings of the state board or other authorized business of the state board, in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 70; 1975-'76 2nd ex.s. c 34 § 87; 1969 c 118 § 8; 1955 c 263 § 4.]

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.

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Chapter 41.26

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM

Sections

41.26.030 Definitions.
41.26.065 Payment of legal and medical expenses of system.
41.26.210 Notice for hearing required prior to petitioning for judicial review.
41.26.220 Hearing—Conduct.
41.26.230 No bond required on appeal to court.
41.26.450 Employer, member, and state contributions.

41.26.030 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2) (a) "Employer" for persons who establish membership in the retirement system on or before September 30, 1977, means the legislative authority of any city, town, county or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for persons who establish membership in the retirement system on or after October 1, 1977, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter.

(3) "Law enforcement officer" means any person who is serving on a full time, fully compensated basis as a county sheriff or deputy sheriff, including sheriffs or deputy sheriffs serving under a different title pursuant to a county charter, city police officer, or town marshal or deputy marshal, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance

enacted by the legislative body of the city shall be considered city police officers; and

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if such individual has five years previous membership in the retirement system established in chapter 41.20 RCW: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply.

(4) "Fire fighter" means:

(a) any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, or fireman if this title is used by the department, and who is actively employed as such;

(b) anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) supervisory fire fighter personnel;

(d) any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(e) the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW: *Provided*, That for persons who establish membership in the retirement system on or after October 1, 1977, the provisions of this subparagraph shall not apply;

(f) any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fireman or fire fighter; and

(g) any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971 was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Retirement board" means the Washington public employees' retirement system board established in chapter 41.40 RCW, including two members of the retirement system and two employer representatives as provided for in **RCW 41.26.050. The retirement board shall be called the Washington law enforcement officers' and fire fighters' retirement board and may enter in legal relationships in that name. Any legal relationships entered into in that name prior to the adoption of *this 1972 amendatory act are hereby ratified.

(6) "Surviving spouse" means the surviving widow or widower of a member. The word shall not include the divorced spouse of a member.

(7) "Child" or "children" whenever used in this chapter means every natural born child and stepchild where that relationship was in existence prior to the date benefits are payable under this chapter, posthumous child, child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter, and illegitimate child legitimized prior to the date any benefits are payable under this chapter, all while unmarried, and either under the age of eighteen years or mentally or physically handicapped as determined by the retirement board except a handicapped person in the full time care of a state institution. A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) above.

(11) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September 30, 1977, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) (a) "Final average salary" for persons who establish membership in the retirement system on or before September 30, 1977, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the

time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for persons who establish membership in the retirement system on or after October 1, 1977, means the monthly average of the member's basic salary for the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13) (a) "Basic salary" for persons who establish membership in the retirement system on or before September 30, 1977, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b) and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That in any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) the basic salary the member would have received had such member not served in the legislature; or

(ii) such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under subparagraph (i) of this subsection is greater than basic salary under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(14) (a) "Service" for persons who establish membership in the retirement system on or before September 30, 1977, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this

chapter. In addition to the foregoing, for members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall include (i) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (ii) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act: *Provided*, That if such member's prior service is not creditable due to the withdrawal of his contributions plus accrued interest thereon from a prior pension system, such member shall be credited with such prior service, as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to that which was withdrawn from the prior system by such member, as a law enforcement officer or fire fighter: *Provided further*, That if such member's prior service is not creditable because, although employed in a position covered by a prior pension act, such member had not yet become a member of the pension system governed by such act, such member shall be credited with such prior service as a law enforcement officer or fire fighter, by paying to the Washington law enforcement officers' and fire fighters' retirement system, on or before March 1, 1975, an amount which is equal to the employer's contributions which would have been required under the prior act when such service was rendered if the member had been a member of such system during such period: *And provided further*, That where a member is employed by two employers at the same time, he shall only be credited with service to one such employer for any month during which he rendered such dual service.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

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 benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(15) "Accumulated contributions" means the employer's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" means either the county disability board or the city disability board established in RCW 41.26.110 for persons who establish membership in the retirement system on or before September 30, 1977.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(20) "Disability retirement" for persons who establish membership in the retirement system on or before September 30, 1977, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for persons who establish membership in the retirement system on or before September 30, 1977, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when he is injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(26) "Director" means the director of the department.

(27) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(28) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature. [1984 c 230 § 83; 1981 c 256 § 4; 1979 ex.s. c 249 § 2; 1977 ex.s. c 294 § 17; 1974 ex.s. c 120 § 1; 1972 ex.s. c 131 § 1; 1971 ex.s. c 257 § 6; 1970 ex.s. c 6 § 1; 1969 ex.s. c 209 § 3.]

Reviser's note: *(1) The effective date of "this 1972 amendatory act" [1972 ex.s. c 131] was February 25, 1972.

(2) The term "this 1970 amendatory act" has been changed to "this chapter" wherever the term occurs in the 1970 amendments to chapter 41.26 RCW. "This 1970 amendatory act" [1970 ex.s. c 6] consists of the 1970 amendments to this section and to RCW 41.26.040, 41.26.050, 41.26.090 through 41.26.200, 41.26.240, 41.24.010, 41.24.030, 41.24.031 and section 44, chapter 209, Laws of 1969 ex. sess. [uncodified].

** (3) RCW 41.26.050 was repealed by 1982 c 163 § 23. Powers, duties, and functions of the Washington law enforcement officers' and fire fighters' retirement board transferred to the director of retirement systems. See RCW 41.26.051.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Severability—1974 ex.s. c 120: "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 120 § 15.]

Severability—1972 ex.s. c 131: "If any provision of this 1972 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." [1972 ex.s. c 131 § 12.]

Purpose—1971 ex.s. c 257: "It is the purpose of this act to provide minimum medical and health standards for membership coverage into the Washington law enforcement officers' and fire fighters' retirement system act, for the improvement of the public service, and to safeguard the integrity and actuarial soundness of their pension systems, and to improve their retirement and pension systems and related provisions." [1971 ex.s. c 257 § 1.]

Severability—1971 ex.s. c 257: "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 257 § 22.]

The two foregoing annotations apply to RCW 41.16.146, 41.18.105, 41.26.030, 41.26.035, 41.26.045, 41.26.046, 41.26.047, 41.26.050, 41.26.090, 41.26.100, 41.26.150, 41.26.160, 41.26.180, 41.26.200, 41.26.270, 41.26.280, 41.26.290, 41.48.030 and 41.48.050.

41.26.065 Payment of legal and medical expenses of system. The director is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 5.]

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

41.26.210 Notice for hearing required prior to petitioning for judicial review. Any person aggrieved by any final decision of the director must, before petitioning for judicial review, file with the director of the retirement system by mail or personally within sixty days from the day such decision was communicated to such person, a notice for a hearing. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in the notice of hearing or appearing in the records of the retirement system. [1984 c 184 § 16; 1981 c 294 § 6; 1969 ex.s. c 209 § 19.]

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

Severability—1981 c 294: See note following RCW 41.26.115.

41.26.220 Hearing—Conduct. A hearing shall be held by the director, or the director's duly authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearing shall be de novo and shall conform to the provisions of chapter 34.04 RCW, as now or hereafter amended. The disability board and the department shall be entitled to appear in all such proceedings and introduce testimony in support of the decision. Judicial review of any final decision by the director shall be governed by the provisions of chapter 34.04 RCW as now law or hereafter amended. [1984 c 184 § 17; 1981 c 294 § 7; 1969 ex.s. c 209 § 20.]

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

Severability—1981 c 294: See note following RCW 41.26.115.

41.26.230 No bond required on appeal to court. No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a decision of the director affecting such claimant's right to retirement or disability benefits. [1984 c 184 § 18; 1971 c 81 § 103; 1969 ex.s. c 209 § 21.]

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

41.26.450 Employer, member, and state contributions. The required contribution rates to the retirement system for members, employers, and the state of Washington shall be established by the director from time to time as may be necessary upon the advice of the state actuary.

The member, the employer and the state shall each contribute the following shares of the cost of the retirement system:

Member	50%
Employer	30%
State	20%

Any adjustments in contribution rates required from time to time for future costs shall likewise be shared proportionally by the members, employers, and the state: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the state.

Any increase in the contribution rate required as the result of a failure of the state or of an employer to make any contribution required by this section shall be borne in full by the state or by that employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members' contributions required by this section shall be deducted from the members basic salary each payroll period. The members contribution and the employers contribution shall be remitted directly to the department

within fifteen days following the end of the calendar month during which the payroll period ends.

Until such time as the director shall establish other rates, members, employers of such members, and the state shall each contribute the following percentages of basic salary:

Member	8.14%
Employer	4.88%
State	3.28%

In addition, the state shall initially contribute an additional twenty percent of basic salary per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1984 c 184 § 10; 1977 ex.s. c 294 § 6.]

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

Legislative direction and placement—Section headings—1977 ex.s. c 294: See notes following RCW 41.26.400.

**Chapter 41.32
TEACHERS' RETIREMENT**

Sections	
41.32.010	Definitions.
41.32.045	Payment of legal and medical expenses of system.
41.32.242	Membership in system—Service credit of educational staff associates.
41.32.401	Director to establish employer contribution rates to meet present and future liabilities and operating expenses.
41.32.403	Employer contribution rates—Computation and payment.
41.32.405	Income fund created—Source of funds.
41.32.410	Repealed.
41.32.4985	Repealed.
41.32.775	Employer and member contributions.

41.32.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

(1) (a) "Accumulated contributions" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for persons who establish membership in the retirement system on or after October 1, 1977, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Annuity fund" means the fund in which all of the accumulated contributions of members are held.

(5) "Annuity reserve fund" means the fund to which all accumulated contributions are transferred upon retirement.

(6) (a) "Beneficiary" for persons who establish membership in the retirement system on or before September

30, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for persons who establish membership in the retirement system on or after October 1, 1977, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7) "Contract" means any agreement for service and compensation between a member and an employer.

(8) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(9) "Dependent" means receiving one-half or more of support from a member.

(10) "Disability allowance" means monthly payments during disability. This subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(11) (a) (i) "Earnable compensation" for persons who establish membership in the retirement system on or before September 30, 1977, means all salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money: *Provided*, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit: *Provided further*, That if a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district in an instructional position, for which the member receives service credit of less than one year in both of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period. For the purposes of this subsection, the term

"instructional position" means a position in which more than seventy-five percent of the member's time is spent in preparation for and in classroom instruction. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(b) "Earnable compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, as reported by the employer on the wage and tax statement submitted to the federal internal revenue service, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b) and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: *Provided*, That retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit: *Provided further*, That in any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(i) the earnable compensation the member would have received had such member not served in the legislature; or

(ii) such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(12) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(13) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(14) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(15) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(16) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who,

prior to that date, had by an authorized payroll deduction, contributed to the annuity fund.

(17) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: *Provided*, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(18) "Pension" means the moneys payable per year during life from the pension reserve fund.

(19) "Pension reserve fund" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(20) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(21) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to persons who establish membership in the retirement system on or before September 30, 1977.

(22) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(23) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the annuity fund. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(24) "Regular interest" means such rate as the director may determine.

(25) (a) "Retirement allowance" for persons who establish membership in the retirement system on or before September 30, 1977, means the sum of annuity and pension or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for persons who establish membership in the retirement system on or after October 1, 1977, means monthly payments to a retiree or beneficiary as provided in this chapter.

(26) "Retirement system" means the Washington state teachers' retirement system.

(27) (a) "Service" means the time during which a member has been employed by an employer for compensation: *Provided*, That where a member is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service is rendered.

(b) "Service" for persons who establish membership in the retirement system on or after October 1, 1977, means periods of employment by a member for one or more employers for which earnable compensation is

earned for ninety or more hours per calendar month. Members shall receive twelve months of service for each contract year or school year of employment.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive service credit for the time spent in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

Notwithstanding RCW 41.32.240, teachers covered by RCW 41.32.755 through 41.32.825, who render service need not serve for ninety days to obtain membership so long as the required contribution is submitted for such ninety-day period. Where a member did not receive service credit under RCW 41.32.775 through 41.32.825 due to the ninety-day period in RCW 41.32.240 the member may receive service credit for that period so long as the required contribution is submitted for the period. Anyone entering membership on or after October 1, 1977, and prior to July 1, 1979, shall have until June 30, 1980, to make the required contribution in one lump sum.

(28) "Survivors' benefit fund" means the fund from which survivor benefits are paid to dependents of deceased members. This subsection shall apply only to persons establishing membership in the retirement system on or before September 30, 1977.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for persons who establish membership in the retirement system on or after October 1, 1977, means the member's average earnable compensation of the highest consecutive sixty months of service prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation.

(31) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Retirement board" means the director of retirement systems. [1984 c 256 § 1; 1984 c 5 § 1; 1983 c 5 § 1; 1982 1st ex.s. c 52 § 6; 1981 c 256 § 5; 1979 ex.s. c 249 § 5; 1977 ex.s. c 293 § 18; 1975 1st ex.s. c 275 § 149; 1974 ex.s. c 199 § 1; 1969 ex.s. c 176 § 95; 1967 c 50 § 11; 1965 ex.s. c 81 § 1; 1963 ex.s. c 14 § 1; 1955 c 274 § 1; 1947 c 80 § 1; Rem. Supp. 1947 § 4995-20. Prior: 1941 c 97 § 1; 1939 c 86 § 1; 1937 c 221 § 1; 1931 c 115 § 1; 1923 c 187 § 1; 1917 c 163 § 1; Rem. Supp. 1941 § 4995-1.]

Reviser's note: This section was amended by 1984 c 5 § 1 and by 1984 c 256 § 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 dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Purpose—Severability—1981 c 256: See notes following RCW 41.04.250.

Effective date—Severability—1977 ex.s. c 293: See notes following RCW 41.32.750.

Emergency—1974 ex.s. c 199: "This 1974 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 immediately." [1974 ex.s. c 199 § 7.]

Severability—1974 ex.s. c 199: "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 199 § 8.]

The two foregoing annotations apply to RCW 41.32.010, 41.32.260, 41.32.4945, 41.32.497, and 41.32.498.

Construction—1974 ex.s. c 199: "(1) Subsection (3) of section 4 of this 1974 amendatory act relating to elected and appointed officials shall be retroactive to January 1, 1973.

(2) Amendatory language contained in subsection (11) of section 1 relating to members as members of the legislature and in provisos (2) and (3) of section 2 of this 1974 amendatory act shall only apply to those members who are serving as a state senator, state representative or state superintendent of public instruction on or after the effective date of this 1974 amendatory act.

(3) Notwithstanding any other provision of this 1974 amendatory act, RCW 41.32.497 as last amended by section 2, chapter 189, Laws of 1973 1st ex. sess. shall be applicable to any member serving as a state senator, state representative or superintendent of public instruction on the effective date of this 1974 amendatory act." [1974 ex.s. c 199 § 5.]

Reviser's note: (1) "Subsection (3) of section 4 of this 1974 amendatory act" is codified as RCW 41.32.498(3).

(2) Sections 1 and 2 of 1974 ex.s. c 199 consist of amendments to RCW 41.32.010 and 41.32.260. For amendatory language, a portion of which was vetoed, see the 1973-1974 session laws.

(3) "this 1974 amendatory act" [1974 ex.s. c 199] is codified in RCW 41.32.010, 41.32.260, 41.32.497, 41.32.498 and 41.32.4945. The effective date of 1974 ex.s. c 199 is May 6, 1974.

Effective date—1969 ex.s. c 176: The effective date of the amendments to this section and RCW 41.32.420 is April 25, 1969.

Effective date—1967 c 50: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 c 50 § 12.]

Severability—1967 c 50: "If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1967 c 50 § 13.]

The two foregoing annotations apply to the 1967 amendments of RCW 41.32.010, 41.32.250, 41.32.260, 41.32.280, 41.32.420, 41.32.430, 41.32.500, 41.32.520, 41.32.522, 41.32.523, and 41.32.550.

Severability—1965 ex.s. c 81: "If any provision of this act is held to be invalid the remainder of this act shall not be affected." [1965 ex.s. c 81 § 9.]

Effective date—1965 ex.s. c 81: "The effective date of this act is July 1, 1965." [1965 ex.s. c 81 § 10.]

The two foregoing annotations apply to the 1965 amendments of RCW 41.32.010, 41.32.200, 41.32.240, 41.32.470, 41.32.500, 41.32.520, 41.32.523, and 41.32.310.

Saving—1963 ex.s. c 14: "The amendment of any section by this 1963 act shall not be construed as impairing any existing right acquired or any liability incurred by any member under the provisions of the section amended; nor shall it affect any vested right of any former member who reenters public school employment or becomes reinstated as a member subsequent to the effective date of such act." [1963 ex.s. c 14 § 23.]

Severability—1963 ex.s. c 14: "If any provision of this act is held to be invalid the remainder of the act shall not be affected." [1963 ex.s. c 14 § 24.]

Effective date—1963 ex.s. c 14: "The effective date of this act is July 1, 1964." [1963 ex.s. c 14 § 26.]

The three foregoing annotations apply to the 1963 amendments of RCW 41.32.010, 41.32.030, 41.32.200, 41.32.240, 41.32.300, 41.32.320, 41.32.350, 41.32.360, 41.32.410, 41.32.420, 41.32.430, 41.32.470, 41.32.510, 41.32.540, 41.32.550; to the 1963 repeal of RCW 41.32.270, 41.32.400 and 41.32.450; and to the 1963 enactment of RCW 41.32.365, 41.32.401, 41.32.497, 41.32.522 and 41.32.523.

41.32.045 Payment of legal and medical expenses of system. The director is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 6.]

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

41.32.242 Membership in system—Service credit of educational staff associates. (1) Any teacher, as defined under RCW 41.32.010(29), who is first employed by a public school on or after June 7, 1984, shall become a member of the retirement system as directed under RCW 41.32.240 if otherwise eligible.

(2) Any person who before June 7, 1984, has established service credit under chapter 41.40 RCW while employed in an educational staff associate position and who is employed in such a position on or after June 7, 1984 has the following options:

(a) To remain a member of the public employees' retirement system notwithstanding the provisions of RCW 41.32.240 or 41.32.780; or

(b) To irrevocably elect to join the retirement system under this chapter and to receive service credit for pre-vious periods of employment in any position included under RCW 41.32.010(29). Such service credit and corresponding employee contribution shall be computed as though the person had then been a member of the retirement system under this chapter. All employee contributions credited to a member under chapter 41.40 RCW

for service now to be credited to the retirement system under this chapter shall be transferred to the system and the member shall not receive any credit nor enjoy any rights under chapter 41.40 RCW for those periods of service. The member shall pay any difference between the employee contributions made under chapter 41.40 RCW and transferred under this subsection and what would have been required under this chapter, including interest as set by the director. The member shall be given until July 1, 1989, to make the irrevocable election permitted under this section. The election shall be made by submitting written notification as required by the department requesting credit under this section and by permitting any necessary proof of service or payments within the time set by the department.

Any person, not employed as an educational staff associate on June 7, 1984, may, before June 30 of the fifth school year after that person's return to employment as a teacher, request and establish membership and credit under this subsection. [1984 c 256 § 2.]

41.32.401 Director to establish employer contribution rates to meet present and future liabilities and operating expenses. (1) For the purpose of establishing and maintaining an actuarial reserve adequate to meet present and future liabilities of the system and to pay for an equitable portion of the operating expenses of the department, the director shall determine the necessary contribution rates to be made by each employer on all members' total earnable compensation on the basis of the latest valuation prepared by the state actuary, and shall include a percentage contribution of the total earnable compensation, to be known as the "normal contribution" and an additional percentage contribution of such earnable compensation, to be known as the "unfunded liability contribution." The director shall notify employers of such rates at least thirty days prior to their effective date. Such determination shall provide for amortization of unfunded retirement system liabilities over a period of not more than fifty years from July 1, 1964. The legislature shall appropriate to the superintendent of public instruction the full amount recommended by the state actuary for the employer contribution rates for state funded certificated staff. The amounts shall be deposited in the teachers' retirement fund for the payment of pensions, survivors' benefits, and the employer's share of the operating expenses for the system. However, a school district for the 1985-86 school year shall not be required to pay to the department of retirement systems for the employer contribution to the teachers' retirement system, any amount in excess of the funds received by such school district from the state through the office of the superintendent of public instruction for such purpose, and for the 1986-87 school year and thereafter, a school district shall not be required to pay at a rate exceeding the rate that the director sets for the employer contribution for each employee.

(2) In order to equitably reimburse the department of retirement systems expense fund, the director shall ascertain and report to each employer the contribution

rate necessary to defray its proportional share of the cost of administering this chapter during either the next biennium or fiscal year, whichever is required to provide the amounts needed to defray such cost of administration. The director shall also ascertain at the beginning of either each biennium or each fiscal year, whichever is required, and request from the legislature an appropriation for the department of retirement systems expense fund sufficient to cover estimated expenses for the biennium or fiscal year. [1984 c 236 § 1; 1982 1st ex.s. c 52 § 9; 1980 c 87 § 15; 1963 ex.s. c 14 § 11.]

Effective date—1984 c 236: "This act shall take effect September 1, 1985. However, rules necessary for the implementation of this act may be promulgated by appropriate state agencies prior to the effective date." [1984 c 236 § 6.]

Severability—1984 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." [1984 c 236 § 5.]

Effective dates—1982 1st ex.s. c 52: "(1) Sections 9 and 34 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) The remainder of this act shall take effect July 1, 1982." [1982 1st ex.s. c 52 § 37.] Sections 9 and 34 of 1982 1st ex.s. c 52, which consist of the amendment of RCW 41.32.401 and the enactment of RCW 41.40.187, respectively, took effect April 20, 1982. The remainder of 1982 1st ex.s. c 52 consists of the amendment of RCW 2.10.180, 2.12.010, 2.12.020, 2.12.050, 41.26.540, 41.32.010, 41.32.030, 41.32.380, 41.32.405, 41.32.410, 41.32.460, 41.32.4943, 41.32.510, 41.32.567, 41.32.820, 41.40.100, 41.40.120, 41.40.150, 41.40.180, 41.40.370, 41.40.730, 43.43.120, 43.43.230, 43.43.250, 43.43.260, 43.43.270, 43.43.280, 43.43.290, and 43.43.310, the enactment of RCW 2.12.090 and 41.50.140, and the repeal of RCW 41.40.125, 43.43.150, 43.43.265, 43.43.266, and 43.43.267.

Saving—Severability—Effective date—1963 ex.s. c 14: See notes following RCW 41.32.010.

41.32.403 Employer contribution rates—Computation and payment. The amount paid by each employer shall be computed by applying the rates established by RCW 41.32.401 to the total earnable compensation of the employer's members as shown on the current payrolls of the employer. The employer's contribution shall be paid at the end of each month in the amount due for that month. [1984 c 236 § 3.]

Effective date—Severability—1984 c 236: See notes following RCW 41.32.401.

41.32.405 Income fund created—Source of funds. An income fund is hereby created for the purpose of crediting regular interest and such other income as may be derived from the deposits and investments of the various funds of the teachers' retirement fund. All accumulated contributions in the account of a terminated employee except as provided for in RCW 41.32.500 (1) through (3), 41.32.510, 41.32.810, and 41.32.815 shall be transferred to the income fund. If the former employee, the former employee's beneficiary, or the former employee's estate at a future date requests the unclaimed contributions or reinstatement of the rights previously provided thereunder, the former employee's contributions shall be transferred from the income fund to the annuity fund and the former employee's account reestablished with all the rights which would have been

due the former employee, the former employee's beneficiary, or the former employee's estate as if in fact the transfer to the income fund had not occurred. Any moneys that may come into the possession of the retirement system in the form of gifts or bequests which are not allocated to a specific fund, or any other moneys the disposition of which is not otherwise provided herein, shall be credited to the income fund. The moneys accumulated in the income fund shall be available for transfer, upon the director's authorization, to the various funds of the teachers' retirement fund; however, no interest may be credited to the pension fund: *Provided*, That from such accumulated moneys the director shall have sole discretion to determine an amount thereof to be credited to the annuity fund which will thereupon be credited as regular interest to the individual members' accounts except that any accrued interest shall be credited at least annually to the individual members' accounts. [1984 c 236 § 2; 1982 1st ex.s. c 52 § 11; 1973 1st ex.s. c 189 § 8; 1969 ex.s. c 150 § 12.]

Effective date—Severability—1984 c 236: See notes following RCW 41.32.401.

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Severability—1973 1st ex.s. c 189: See note following RCW 41.32.190.

Effective date—1969 ex.s. c 150: See note following RCW 41.32.030.

41.32.410 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.32.4985 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.32.775 Employer and member contributions. The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary: *Provided*, That the employer contribution shall be contributed as provided in RCW 41.32.401.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members earnable compensation each payroll period. The members contribution shall be

remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends and the employers contribution shall be remitted as provided by law.

Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.66% of earnable compensation: *Provided*, That employers shall initially contribute an additional 5.80% of earnable compensation per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1984 c 184 § 11; 1977 ex.s. c 293 § 6.]

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

Effective date—**Severability**—**Legislative direction and placement**—**Section headings**—1977 ex.s. c 293: See notes following RCW 41.32.750.

Members' retirement contributions—**Payment by employer**: RCW 41.04.445.

Chapter 41.40

WASHINGTON PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sections

41.40.083	Payment of legal and medical expenses of system.
41.40.120	Membership.
41.40.187	Repealed.
41.40.310	Periodical examination of disability beneficiaries— Benefits upon resumption of gainful employment.
41.40.403	Transfer of service credit from state-wide city employees' retirement system.
41.40.650	Employer and member contributions.
41.40.810	Chapter not applicable to officers and employees of state convention and trade center.

41.40.083 Payment of legal and medical expenses of system. The director is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 7.]

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

41.40.120 Membership. Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3) Persons holding elective offices or persons appointed directly by the governor: *Provided*, That such persons shall have the option of applying for membership during such periods of employment: *And provided further*, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: *And provided further*, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(4) Employees 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 are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: *Provided, however*, In any case where the 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, such an employee shall be allowed membership rights should the agreement so provide: *And provided further*, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: *And provided further*, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of enrollment under the relief and compensation provisions or the pension provisions of the volunteer firemen's relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident

to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: *Provided*, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Persons hired in eligible positions on a temporary basis for a period not to exceed six months: *Provided*, That if such employees are employed for more than six months in an eligible position they shall become members of the system;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: *Provided*, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW 41.40.010(4) as the result of an individual's election under the first proviso of this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from transferring all of its current employees to the retirement system established under this chapter. Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c)

are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: *Provided*, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application. [1984 c 184 § 13; 1984 c 121 § 1; 1982 1st ex.s. c 52 § 19; 1975 c 33 § 6; 1974 ex.s. c 195 § 2; 1973 1st ex.s. c 190 § 5; 1971 ex.s. c 271 § 4; 1969 c 128 § 5; 1967 c 127 § 3; 1965 c 155 § 2; 1963 c 225 § 2; 1963 c 210 § 1; 1957 c 231 § 2; 1955 c 277 § 2; 1953 c 200 § 5; 1951 c 50 § 2; 1949 c 240 § 7; 1947 c 274 § 13; Rem. Supp. 1949 § 11072-13.]

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

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Severability—1975 c 33: See note following RCW 35.21.780.

Severability—1974 ex.s. c 195: "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 195 § 14.] This applies to the amendments to RCW 41.40.030, 41.40.120, 41.40.150 and 41.40.380, and to the enactment of RCW 41.40.515 through 41.40.522.

Severability—1973 1st ex.s. c 190: See note following RCW 41.40.010.

Severability—1971 ex.s. c 271: See note following RCW 41.32.260.

Severability—1969 c 128: See note following RCW 41.40.010.

Pension benefits or annuity benefits for certain classifications of school district employees: RCW 28A.58.565.

41.40.187 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

41.40.310 Periodical examination of disability beneficiaries—Benefits upon resumption of gainful employment. Once each year during the first five years following the retirement of a member on a disability pension or retirement allowance, and at least once in every three year period thereafter the retirement board may, and upon the member's application shall, require any disability beneficiary, who has not attained age sixty years, to undergo a medical examination; such examination to be made by or under the direction of the medical adviser at the place of residence of said beneficiary, or other place mutually agreed upon. Should any disability beneficiary, who has not attained age sixty years, refuse to submit to such medical examination in any such period, his disability pension or retirement allowance may be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights in and to his disability pension, or retirement allowance, may be revoked by the retirement board. If upon such

medical examination of a disability beneficiary, the medical adviser reports and his report is concurred in by the retirement board, that the disability beneficiary is no longer totally incapacitated for duty as the result of the injury or illness for which the disability was granted, or that he is engaged in a gainful occupation, his disability pension or retirement allowance shall cease: *Provided*, That if the disability beneficiary resumes a gainful occupation and his compensation is less than his compensation earnable at the date of disability, the board shall continue the disability benefits in an amount which when added to his compensation does not exceed his compensation earnable at the date of separation, but the disability benefit shall in no event exceed the disability benefit originally awarded: *Provided further*, That the compensation earnable at the date of separation is adjusted July 1 of each year by the ratio of the average consumer price index (Seattle, Washington area) for urban consumers, compiled by the United States department of labor, bureau of labor statistics, for the calendar year prior to the adjustment to the average consumer price index for the calendar year in which separation from service occurred but in no event shall the adjustment result in an amount lower than the original compensation earnable at the date of separation. [1984 c 184 § 14; 1965 c 155 § 7; 1963 c 174 § 14; 1955 c 277 § 7; 1951 c 50 § 9; 1949 c 240 § 22; 1947 c 274 § 32; Rem. Supp. 1949 § 11072-32.]

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

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

41.40.403 Transfer of service credit from state-wide city employees' retirement system. (1) Any person who was a member of the state-wide city employees' retirement system governed by chapter 41.44 RCW and who also became a member of the public employees' retirement system on or before March 15, 1984, may, in a writing filed with the director, elect to:

(a) Transfer to the public employees' retirement system all service currently credited under chapter 41.44 RCW;

(b) Reestablish and transfer to the public employees' retirement system all service which was previously credited under chapter 41.44 RCW but which was canceled by discontinuance of service and withdrawal of accumulated contributions as provided in RCW 41.44.190. The service may be reestablished and transferred only upon payment by the member to the employees' savings fund of the public employees' retirement system of the amount withdrawn plus interest thereon from the date of withdrawal until the date of payment at a rate determined by the director. No additional payments are required for service credit described in this subsection if already established under this chapter; and

(c) Establish service credit for the initial period of employment not to exceed six months, prior to establishing membership under chapter 41.44 RCW, upon payment in full by the member of the total employer's contribution to the benefit account fund of the public employees' retirement system that would have been

made under this chapter when the initial service was rendered. The payment shall be based on the first month's compensation earnable as a member of the state-wide city employees' retirement system and as defined in RCW 41.44.030(13). However, a person who has established service credit under RCW 41.40.010(11) (c) or (d) shall not establish additional credit under this subsection nor may anyone who establishes credit under this subsection establish any additional credit under RCW 41.40.010(11) (c) or (d). No additional payments are required for service credit described in this subsection if already established under this chapter.

(2)(a) In the case of a member of the public employees' retirement system who is employed by an employer on March 15, 1984, the written election required by subsection (1) of this section must be filed and the payments required by subsection (1)(b) and (c) of this section must be completed in full within one year after March 15, 1984.

(b) In the case of a former member of the public employees' retirement system who is not employed by an employer on March 15, 1984, the written election must be filed and the payments must be completed in full within one year after reemployment by an employer.

(c) In the case of a retiree receiving a retirement allowance from the public employees' retirement system on March 15, 1984, or any person having vested rights as described in RCW 41.40.150(3) or (5), the written election may be filed and the payments may be completed at any time.

(3) Upon receipt of the written election and payments required by subsection (1) of this section from any retiree described in subsection (2)(c) of this section, the department shall recompute the retiree's allowance in accordance with this section and shall pay any additional benefit resulting from such recomputation retroactively to the date of retirement from the system governed by this chapter. [1984 c 184 § 9.]

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

41.40.650 Employer and member contributions. The required contribution rates to the retirement system for both members and employers shall be established by the director from time to time as may be necessary upon the advice of the state actuary.

Contribution rates required to fund the costs of the retirement system shall always be equal for members and employers, except as herein provided. Any adjustments in contribution rates required from time to time for future costs shall likewise be shared equally by the members and employers: *Provided*, That the costs of amortizing the unfunded supplemental present value of the retirement system, in existence on September 30, 1977, shall be borne in full by the employers.

Any increase in the contribution rate required as the result of a failure of an employer to make any contribution required by this section shall be borne in full by the employer not making the contribution.

The director shall notify all employers of any pending adjustment in the required contribution rate and such

increase shall be announced at least thirty days prior to the effective date of the change.

Members contributions required by this section shall be deducted from the members compensation earnable each payroll period. The members contribution and the employers contribution shall be remitted directly to the department within fifteen days following the end of the calendar month during which the payroll period ends.

Until such time as the director shall establish other rates, members and employers of such members shall each contribute 5.51% of compensation earnable: *Provided*, That employers shall initially contribute an additional one and one-half percent of compensation earnable per member to amortize the unfunded supplemental present value of the retirement system in effect on September 30, 1977. [1984 c 184 § 12; 1977 ex.s. c 295 § 6.]

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

Legislative direction and placement—Section headings—1977 ex.s. c 295: See notes following RCW 41.40.600.

Members' retirement contributions—Payment by employer: RCW 41.04.445.

41.40.810 Chapter not applicable to officers and employees of state convention and trade center. The provisions of this chapter shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 6.]

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

Chapter 41.50

DEPARTMENT OF RETIREMENT SYSTEMS

Sections

- 41.50.032 Transfer of powers, duties, and functions of certain boards to director of retirement systems—State advisory committee created—Chairperson—Subcommittees—Disability appeals.
- 41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs.

41.50.032 Transfer of powers, duties, and functions of certain boards to director of retirement systems—State advisory committee created—Chairperson—Subcommittees—Disability appeals. (1) The director shall assume all powers, duties, and functions of the retirement boards abolished by RCW 2.10.052, 41.26.051, 41.32.015, 41.40.022, and 43.43.142 except as otherwise assigned in this section.

(2) There is hereby created a state advisory committee to the department of retirement systems which shall serve in an advisory capacity to the director of retirement systems. The committee shall consist of twelve members appointed by the governor as provided in this section:

(a) Three active members and one retired member of the public employees' retirement system;

(b) Two active members, one a law enforcement officer and the other a fire fighter, and one retired fire

fighter, of the law enforcement officers' and fire fighters' retirement system;

(c) Two active members, one a teacher and the other an administrator, and one retired member of the teachers' retirement system;

(d) One active member of the state patrol retirement system;

(e) One active member of the judicial retirement system.

The active members appointed under subsections (a), (b), (c), and (d) of this subsection shall be selected from a list of three nominees submitted by each organization representing active members. The retired members appointed under subsections (a), (b), and (c) of this subsection shall be selected from a list of three nominees submitted by each organization representing retired members. The member appointed under subsection (e) of this subsection shall be appointed from a list of three nominees submitted by the state supreme court.

Members shall serve staggered three-year terms as determined by the governor. Members shall serve without compensation but shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) The advisory committee shall at its first meeting of each fiscal year elect a chairperson and vice chairperson.

(4) The chairperson shall annually appoint from the committee members a subcommittee for each retirement system covered by this chapter. Each subcommittee shall have one committee member representing the system for which appointed and two other committee members who represent any other system. The subcommittees shall meet upon the call of the director to review all disability appeals cases which have been heard by a hearings examiner. Having considered the hearings examiner's proposed decision, including findings of fact and conclusions of law, and having personally considered the whole record or such portions thereof as may be cited by the parties, the subcommittee shall make a recommendation to the director for the disposition of the appeal. [1984 c 184 § 15; 1982 c 163 § 9.]

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

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

41.50.150 Retirement benefits based on excess compensation—Employer liable for extra retirement costs.

(1) The employer of any employee whose retirement benefits are based in part on excess compensation, as defined in this section, shall, upon receipt of a billing from the department, pay into the appropriate retirement system the present value at the time of the employee's retirement of the total estimated cost of all present and future benefits from the retirement system attributable to the excess compensation. The state actuary shall determine the estimated cost using the same method and procedure as is used in preparing fiscal note costs for the legislature. However, the director may in the director's discretion decline to bill the employer if

the amount due is less than fifty dollars. Accounts unsettled within thirty days of the receipt of the billing shall be assessed an interest penalty of one percent of the amount due for each month or fraction thereof beyond the original thirty-day period.

(2) "Excess compensation," as used in this section, includes any payment that was used in the calculation of the employee's retirement allowance, except regular salary and overtime, but is not limited to a cash out of unused annual leave in excess of two hundred forty hours of such leave, a cash out of any other form of leave, a payment for, or in lieu of, any personal expense, and any other termination or severance payment used in the calculation of the employee's retirement allowance. Any payment which is made pursuant to any labor agreement currently in force shall not be deemed excess compensation. Any payments in excess of regular salary and overtime, and two hundred forty hours of unused annual leave made after the expiration of a current contract shall be excess compensation.

(3) This section applies to the retirement systems listed in RCW 41.50.030 and to retirements occurring on or after March 15, 1984. Nothing in this section is intended to amend or determine the meaning of any definition in chapter 2.10, 2.12, 41.26, 41.32, 41.40, or 43.43 RCW or to determine in any manner what payments are includable in the calculation of a retirement allowance under such chapters.

(4) An employer is not relieved of liability under this section because of the death of any person either before or after the billing from the department. [1984 c 184 § 1.]

Severability—1984 c 184: "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 184 § 31.]

Chapter 41.56

PUBLIC EMPLOYEES' COLLECTIVE BARGAINING

Sections

41.56.030 Definitions.

41.56.030 Definitions. As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter as designated by RCW 41.56.020, or any subdivision of such public body.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to the executive head or body of the applicable bargaining unit, or any person elected by popular vote or appointed to office pursuant to statute, ordinance or resolution for a specified term of office by the executive head or body of the public employer.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of any county of the second class or larger, or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended. [1984 c 150 § 1; 1975 1st ex.s. c 296 § 15; 1973 c 131 § 2; 1967 ex.s. c 108 § 3.]

Effective date—1984 c 150: "This act shall take effect on July 1, 1985." [1984 c 150 § 2.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Construction—Severability—1973 c 131: See RCW 41.56.905, 41.56.910.

Public employment relations commission: Chapter 41.58 RCW.

Chapter 41.58

PUBLIC EMPLOYMENT LABOR RELATIONS

Sections

41.58.015 Compensation and travel expenses of members—Executive director—Employees. (Effective July 1, 1985.)

41.58.015 Compensation and travel expenses of members—Executive director—Employees. (Effective July 1, 1985.) (1) Each member of the commission shall be compensated in accordance with RCW 43.03.250. Members of the commission shall also be reimbursed for travel expenses incurred in the discharge of their official duties on the same basis as is provided in RCW 43.03.050 and 43.03.060.

(2) The commission shall appoint an executive director whose annual salary shall be determined under the provisions of RCW 43.03.028. The executive director shall perform such duties and have such powers as the commission shall prescribe in order to implement and enforce the provisions of this chapter. In addition to the performance of administrative duties, the commission may delegate to the executive director authority with respect to, but not limited to, representation proceedings, unfair labor practice proceedings, mediation of labor

disputes, arbitration of disputes concerning the interpretation or application of a collective bargaining agreement, and, in certain cases, fact-finding or arbitration of disputes concerning the terms of a collective bargaining agreement. Such delegation shall not eliminate a party's right of appeal to the commission. The executive director, with such assistance as may be provided by the attorney general and such additional legal assistance consistent with chapter 43.10 RCW, shall have authority on behalf of the commission, when necessary to carry out or enforce any action or decision of the commission, to petition any court of competent jurisdiction for an order requiring compliance with the action or decision.

(3) The commission shall employ such employees as it may from time to time find necessary for the proper performance of its duties, consistent with the provisions of this chapter.

(4) The payment of all of the expenses of the commission, including travel expenses incurred by the members or employees of the commission under its orders, shall be subject to the provisions of RCW 43.03.050 and 43.03.060. [1984 c 287 § 71; 1979 ex.s. c 146 § 2; 1975-'76 2nd ex.s. c 34 § 91; 1975-'76 2nd ex.s. c 5 § 2.]

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.

Chapter 41.60

STATE EMPLOYEES' SUGGESTION AWARDS AND INCENTIVE PAY

Sections

41.60.015 Productivity board created—Members—Terms—Compensation. (Effective July 1, 1985.)

41.60.015 Productivity board created—Members—Terms—Compensation. (Effective July 1, 1985.) (1) There is hereby created the productivity board. The board shall administer the employee suggestion program under this chapter and shall review applications for incentive pay for state employees under RCW 41.60.100, 41.60.110, and 41.60.120.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The director of personnel or the director's designee;

(c) The director of financial management or the director's designee; and

(d) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees, but no one organization may be represented for two consecutive terms.

Initially, the person appointed by the governor shall serve a one-year term, the person appointed by the lieutenant governor shall serve a two-year term, and the person appointed by the speaker shall serve a three-year term. Thereafter, these members shall serve three-year terms.

Members of the board shall be compensated in accordance with RCW 43.03.240. [1984 c 287 § 72; 1983 c 54 § 2; 1982 c 167 § 1.]

Sunset Act application: See note following chapter digest.

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

Severability—1982 c 167: "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 167 § 18.]

Chapter 41.64

PERSONNEL APPEALS BOARD

Sections

41.64.030 Compensation of members—Disclosure of financial affairs. (Effective until July 1, 1985.)

41.64.030 Compensation of members—Travel expenses—Disclosure of financial affairs. (Effective July 1, 1985.)

41.64.030 Compensation of members—Disclosure of financial affairs. (Effective until July 1, 1985.) (1)

The board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the board shall operate on a full-time basis, each member of the board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040, as now existing or hereafter amended. If it is determined that the board shall operate on a part-time basis, each member of the board shall receive compensation of one hundred dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson. Such part-time compensation may not, however, exceed twelve thousand dollars for any one member in a fiscal year. Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

(2) Members of the board shall report their financial affairs to the public disclosure commission pursuant to RCW 42.17.240 and 42.17.241. [1984 c 34 § 4; 1981 c 311 § 4.]

41.64.030 Compensation of members—Travel expenses—Disclosure of financial affairs. (Effective July 1, 1985.) (1)

The board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the board shall operate on a full-time basis, each member of the board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that the board shall operate on a part-time basis, each member of the board shall be compensated in accordance with

RCW 43.03.250. Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060.

(2) Members of the board shall report their financial affairs to the public disclosure commission pursuant to RCW 42.17.240 and 42.17.241. [1984 c 287 § 73; 1984 c 34 § 4; 1981 c 311 § 4.]

Reviser's note: This section was amended by 1984 c 287 § 73, effective July 1, 1985, and by 1984 c 34 § 4, 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.

Title 42

PUBLIC OFFICERS AND AGENCIES

Chapters

- 42.17** Disclosure—Campaign finances—Lobbying—Records.
42.18 Executive Conflict of Interest Act.
42.24 Payment of claims for expenses, material, purchases—Advancements.
42.36 Appearance of fairness doctrine—Limitations.

Chapter 42.17

DISCLOSURE—CAMPAIGN FINANCES—LOBBYING—RECORDS

Sections

- 42.17.020 Definitions.
 42.17.180 Reports by employers of registered lobbyists.
 42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs.
 42.17.2401 "Executive state officer" defined.
 42.17.241 Contents of report.
 42.17.310 Certain personal and other records exempt.
 42.17.350 Public disclosure commission—Established—Membership—Compensation, travel expenses. (Effective July 1, 1985.)
 42.17.370 Commission—Additional powers.
 POLITICAL ADVERTISING
 42.17.510 Identification of sponsor—Exemptions.
 42.17.520 Picture of candidate.
 42.17.530 False information prohibited.
 42.17.540 Responsibility for compliance.

42.17.020 Definitions. (1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Ballot proposition" means any "measure" as defined by RCW 29.01.110, or any initiative, recall, or referendum proposition proposed to be submitted to the

voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency prior to its circulation for signatures.

(3) "Campaign depository" means a bank designated by a candidate or political committee pursuant to RCW 42.17.050.

(4) "Campaign treasurer" and "deputy campaign treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050, to perform the duties specified in that section.

(5) "Candidate" means any individual who seeks election to public office. An individual shall be deemed to seek election when he first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his candidacy for office; or

(b) Announces publicly or files for office.

(6) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(7) "Commission" means the agency established under RCW 42.17.350.

(8) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind: *Provided*, That for the purpose of compliance with RCW 42.17.241, the term "compensation" shall not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(9) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(10) "Contribution" includes a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or transfer of anything of value, including personal and professional services for less than full consideration, but does not include interest on moneys deposited in a political committee's account, ordinary home hospitality and the rendering of "part-time" personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of twenty-five dollars personally paid for by the worker. "Part-time" services, for the purposes of this chapter, means services in addition to regular full-time employment, or, in the case of an unemployed person, services not in excess of twenty hours per week, excluding weekends. For the purposes of this chapter, contributions other than money or its equivalents shall be deemed to have a money value equivalent to the fair market value of the contribution. Sums paid for tickets

to fund-raising events such as dinners and parties are contributions; however, the amount of any such contribution may be reduced for the purpose of complying with the reporting requirements of this chapter, by the actual cost of consumables furnished in connection with the purchase of the tickets, and only the excess over the actual cost of the consumables shall be deemed a contribution.

(11) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(12) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters: *Provided*, That an election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(13) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(14) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term "expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. The term "expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported, or payment of service charges against a political committee's campaign account.

(15) "Final report" means the report described as a final report in RCW 42.17.080(2).

(16) "Immediate family" includes the spouse, dependent children, and other dependent relatives, if living in the household.

(17) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(18) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure acts, chapter 34.04 RCW and chapter 28B.19 RCW.

(19) "Lobbyist" includes any person who lobbies either in his own or another's behalf.

(20) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he is compensated for acting as a lobbyist.

(21) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(22) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(23) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(24) "Political committee" means any person (except a candidate or an individual dealing with his own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

(25) "Public office" means any federal, state, county, city, town, school district, port district, special district, or other state political subdivision elective office.

(26) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(27) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate prior to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065.

(28) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires. [1984 c 34 § 5; 1979 ex.s. c 50 § 1; 1977 ex.s. c 313 § 1;

1975 1st ex.s. c 294 § 2; 1973 c 1 § 2 (Initiative Measure No. 276, approved November 7, 1972).]

Effective date—1977 ex.s. c 313: "This 1977 amendatory act shall take effect on January 1, 1978." [1977 ex.s. c 313 § 9.]

Severability—1977 ex.s. c 313: "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 313 § 8.]

42.17.180 Reports by employers of registered lobbyists. Every employer of a lobbyist registered under this chapter during the preceding calendar year shall file with the commission on or before March 31st of each year a statement disclosing for the preceding calendar year the following information:

(1) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the employer has paid any compensation in the amount of five hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2), and the consideration given or performed in exchange for the compensation.

(2) The name of each state elected official, successful candidate for state office, or members of his immediate family to whom the lobbyist employer made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, the term expenditure shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(3) The total expenditures made by the employer for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(4) All contributions made to a candidate for state office, to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a state-wide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(5) The name and address of each registered lobbyist employed by the employer.

(6) Such other information as the commission prescribes by rule. [1984 c 34 § 6; 1975 1st ex.s. c 294 § 11; 1973 c 1 § 18 (Initiative Measure No. 276, approved November 7, 1972).]

Sunset Act application: See note following RCW 42.17.350.

42.17.240 Elected and appointed officials, candidates, and appointees—Reports of financial affairs. (1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

(3) Every person appointed to a vacancy in an elective office or executive state officer position shall within two weeks of being so appointed file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) For the purposes of this section, the term "executive state officer" includes those listed in RCW 43.17-.020 and those listed in RCW 42.17.2401.

(8) This section does not apply to incumbents or candidates for a federal office or the office of precinct committeeman. [1984 c 125 § 14; 1984 c 34 § 1; 1983 c 161 § 27; 1982 c 10 § 9. Prior: 1981 c 311 § 20; 1981 c 67 § 15; 1979 ex.s. c 265 § 3; 1979 c 151 § 73; prior: 1975-'76 2nd ex.s. c 112 § 7; 1975-'76 2nd ex.s. c 104 § 1 (Ref. Bill No. 36); 1975 1st ex.s. c 294 § 13; 1973 c 1 § 24 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note: This section was amended by 1984 c 34 § 1 and by 1984 c 125 § 14, 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).

Sunset Act application: See note following RCW 42.17.350.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Severability—Effective dates—1983 c 161: See RCW 43.180-903 and 43.180.904.

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 311: See RCW 41.64.910.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

Cemetery district commissioners exempt from chapter: RCW 68.16-.060, 68.16.140.

42.17.2401 "Executive state officer" defined. For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of financial management, the director of personnel, the *director of the planning and community affairs agency,

the director of the state system of community colleges, the executive director of the data processing authority, the executive secretary of the forest practice[s] appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Each member of the state board for community college education, data processing authority, forest practices board, forest practices appeals board, gambling commission, game commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, personnel appeals board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, state housing finance commission, and the utilities and transportation commission. [1984 c 34 § 2.]

***Reviser's note:** "Director of planning and community affairs" means "director of community development." See RCW 43.63A.045.

42.17.241 Contents of report. (1) The statement of financial affairs required by RCW 42.17.240 shall disclose for the reporting individual and each member of his immediate family:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest that exceeded five thousand dollars at any time during the reporting period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during the reporting period; the name, address, and nature of the entity; and

the nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: *Provided*, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship, and position held as trustee; and

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: *Provided*, That for the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which such person serves as an elected official or state executive officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation: *Provided*, That the term "compensation" for purposes of this subsection (1)(g)(ii) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service: *Provided, further*, That with respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every

director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: *Provided*, That if a description of the property has been included in a report previously filed, the property may be listed, for purposes of this provision, by reference to the previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; and

(1) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1), paragraphs (a) through (k) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required. [1984 c 34 § 3; 1979 ex.s. c 126 § 42.]

Sunset Act application: See note following RCW 42.17.350.

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

42.17.310 Certain personal and other records exempt. (1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property: *Provided*, That if at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern: *Provided, further*, That all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(2) The exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld. [1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972).]

Severability—1984 c 143: See RCW 81.34.900.

Exemptions from public inspection

accounting records of special inquiry judge: RCW 10.29.090.

certain criminal records: Chapter 10.97 RCW.

certificate submitted by physically or mentally disabled person seeking a driver's license: RCW 46.20.041.

examination reports of the supervisor of banking and supervisor of savings and loan associations: RCW 30.04.075, 32.04.220, 33.04.110.

judicial qualifications commission, records of: RCW 2.64.110.

liability reserves of local government joint self-insurance pool: RCW 48.62.110.

medical disciplinary board, reports required to be filed with: RCW 18.72.265.

organized crime

advisory board files: RCW 10.29.030.

investigative information: RCW 43.43.856.

salary and fringe benefit survey information: RCW 28B.16.110, 41.06.160.

sales reports of commercial fertilizers: RCW 15.54.360.

42.17.350 Public disclosure commission—Established—Membership—Compensation, travel expenses. (Effective July 1, 1985.) There is hereby established a "public disclosure commission" which shall be composed of five members who shall be appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party. The original members shall be appointed within sixty days after January 1, 1973. The term of each member shall be five years except that the original five members shall serve initial terms of one, two, three, four, and five years, respectively, as designated by the governor. No member of the commission, during his tenure, shall (1) hold or campaign for elective office; (2) be an officer of any political party or political committee; (3) permit his name to be used, or make contributions, in support of or in opposition to any candidate or proposition; (4) participate in any way in any election campaign; or (5) lobby or employ or assist a lobbyist: *Provided*, That a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 on matters directly affecting this chapter. No member shall be eligible for appointment to more than one full term. A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission. Three members of the commission shall constitute a quorum. The commission shall elect its own chairman and adopt its own rules of procedure in the manner provided in chapter 34.04 RCW. Any member of the commission may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

Members shall be compensated in accordance with RCW 43.03.250 and in addition shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state. [1984 c 287 § 74; 1982 c 147 § 15; 1975-'76 2nd ex.s. c 112 § 8; 1975-'76 2nd ex.s. c 34 § 93; 1975 1st ex.s. c 294 § 23; 1973 c 1 § 35 (Initiative Measure No. 276, approved November 7, 1972).]

Reviser's note—Sunset Act application: The public disclosure commission is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.269. RCW 42.17.010, 42.17.030 through 42.17.125, 42.17.150 through 42.17.245, 42.17.350 through 42.17.380, 42.17.395, 42.17.397, 42.17.405, 42.17.420, 42.17.430, and 42.17.450 are scheduled for future repeal under RCW 43.131.270.

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.

42.17.370 Commission—Additional powers. The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.04 RCW;

(2) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(3) Make from time to time, on its own motion, audits and field investigations;

(4) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(5) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records that the commission deems relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(6) Adopt and promulgate a code of fair campaign practices;

(7) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars; and

(8) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his examination reports concerning those agencies.

(9) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or

any member of his immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order. [1984 c 34 § 7; 1977 ex.s. c 336 § 7; 1975 1st ex.s. c 294 § 25; 1973 c 1 § 37 (Initiative Measure No. 276, approved November 7, 1972).]

Sunset Act application: See note following RCW 42.17.350.

Severability—1977 ex.s. c 336: See note following RCW 42.17.040.

POLITICAL ADVERTISING

42.17.510 Identification of sponsor—Exemptions.

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) Political yard signs are exempt from the requirement of subsection (1) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsection (1) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(3) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet. [1984 c 216 § 1.]

Advertising rates for political candidates: RCW 65.16.095.

42.17.520 Picture of candidate. At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than the largest picture of the same candidate used in the same advertisement. [1984 c 216 § 2.]

42.17.530 False information prohibited. A person shall not sponsor political advertising which contains information that the person knows, or should reasonably be expected to know, to be false. No political advertising may falsely represent that a candidate is an incumbent for the office sought. A person or candidate shall not make, either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization. [1984 c 216 § 3.]

42.17.540 Responsibility for compliance. (1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 shall rest with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 that results from that change. [1984 c 216 § 4.]

Chapter 42.18

EXECUTIVE CONFLICT OF INTEREST ACT

Sections

42.18.220 Former state employees.

42.18.220 Former state employees. (1) No former state employee shall at any time subsequent to his state employment assist another person, whether or not for compensation, in any transaction involving the state in which he at any time participated during his state employment.

(2) No former state employee shall, within a period of two years after termination of employment with an agency, appear before such agency.

(3) No former state employee shall share in any compensation received by another person for assistance which such former state employee is prohibited from rendering by subsections (1) or (2).

(4) No partnership of which a former state employee is a partner, and no partner or employee of such a partnership, shall, for a period of two years following the termination of his state employment, assist another person in any transaction involving the state in which such former state employee at any time participated during his state employment. For purposes of this subsection, the termination of the former state employee's employment with the agency by which he was employed when he so participated shall be deemed to be the termination of his state employment.

(5) Subsections (2), (3), and (4) of this section do not apply to former state employees who were required by statute to have been active members of the state bar association and subject to the code of professional responsibility.

(6) The permitted exceptions applicable to state employees under RCW 42.18.180 shall also be applicable to former state employees under this section, subject to conditions or limitations set forth in regulations issued pursuant to RCW 42.18.240. [1984 c 85 § 1; 1969 ex.s. c 234 § 22.]

Chapter 42.24

PAYMENT OF CLAIMS FOR EXPENSES, MATERIAL, PURCHASES—ADVANCEMENTS

Sections

42.24.115 Municipal corporations and political subdivisions—
Issuance of charge cards to officers and employees for travel expenses.
42.24.180 Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions.

42.24.115 Municipal corporations and political subdivisions—Issuance of charge cards to officers and employees for travel expenses. (1) Any municipal corporation or political subdivision may provide for the issuance of charge cards to officers and employees for the sole purpose of covering expenses incident to authorized travel.

(2) Upon billing or no later than ten days of the billing date, the officer or employee using a charge card issued under this section shall submit a fully itemized travel expense voucher. Any charges against the charge card not properly identified on the travel expense voucher or not allowed following the audit required under RCW 42.24.080 shall be paid by the official or employee by check, United States currency, or salary deduction.

(3) If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, the municipal corporation or political subdivision shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the official or employee up to an amount of the disallowed charges and interest at the same rate as charged by the company which issued the charge card. Any official or employee who has been issued a charge card by a municipal corporation or political subdivision shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the auditing officer. The municipal corporation or political subdivision shall have unlimited authority to revoke use of any charge card issued under this section, and, upon such revocation order being delivered to the charge card company, shall not be liable for any costs. [1984 c 203 § 5.]

Severability—1984 c 203: See note following RCW 35.43.140.

42.24.180 Taxing district—Issuance of warrants or checks before approval by legislative body—Conditions. In order to expedite the payment of claims, the legislative body of any taxing district, as defined in RCW 43.09.260, may authorize the issuance of warrants or checks in payment of claims after the provisions of this chapter have been met and after the officer designated by statute, or, in the absence of statute, an appropriate charter provision, ordinance, or resolution of the taxing district, has signed the checks or warrants, but before the legislative body has acted to approve the claims. The legislative body may stipulate that certain kinds or amounts of claims shall not be paid before the board has reviewed the supporting documentation and approved the issue of checks or warrants in payment of

those claims. However, all of the following conditions shall be met before the payment:

(1) The auditing officer and the officer designated to sign the checks or warrants shall each be required to furnish an official bond for the faithful discharge of his or her duties in an amount determined by the legislative body but not less than fifty thousand dollars;

(2) The legislative body shall adopt contracting, hiring, purchasing, and disbursing policies that implement effective internal control;

(3) The legislative body shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at its next regularly scheduled public meeting; and

(4) The legislative body shall require that if, upon review, it disapproves some claims, the auditing officer and the officer designated to sign the checks or warrants shall jointly cause the disapproved claims to be recognized as receivables of the taxing district and to pursue collection diligently until the amounts disapproved are collected or until the legislative body is satisfied and approves the claims. [1984 c 128 § 11.]

Chapter 42.36

APPEARANCE OF FAIRNESS DOCTRINE— LIMITATIONS

Sections

42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited, exceptions.

42.36.060 Quasi-judicial proceedings—Ex parte communications prohibited, exceptions. During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding. [1984 c 191 § 1; 1982 c 229 § 6.]

Title 43

STATE GOVERNMENT—EXECUTIVE

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Chapter 43.01

STATE OFFICERS—GENERAL PROVISIONS

Sections	
43.01.040	Vacations—Computation and accrual—Transfer—Statement of necessity required for extension of unused leave.
43.01.041	Accrued vacation leave—Payment upon termination of employment.
43.01.045	Vacations—Provisions not applicable to officers and employees of state convention and trade center.

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, 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. [1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

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.

43.01.045 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.

Chapter 43.03

SALARIES AND EXPENSES

Sections	
43.03.220	Compensation of members of part-time boards and commissions—Class one groups. (Effective July 1, 1985.)
43.03.230	Compensation of members of part-time boards and commissions—Class two groups. (Effective July 1, 1985.)
43.03.240	Compensation of members of part-time boards and commissions—Class three groups. (Effective July 1, 1985.)
43.03.250	Compensation of members of part-time boards and commissions—Class four groups. (Effective July 1, 1985.)
43.03.260	Compensation of members of part-time boards and commissions—Reports to legislature. (Effective July 1, 1985.)

43.03.220 Compensation of members of part-time boards and commissions—Class one groups. (Effective July 1, 1985.) (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. (Effective July 1, 1985.) (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. (Effective July 1, 1985.) (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. (Effective July 1, 1985.) (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. (Effective July 1, 1985.) 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 legislative budget committee and the appropriate standing committees of the legislature by December 1, 1988, and every four years thereafter. [1984 c 287 § 113.]

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

Chapter 43.06 GOVERNOR

Sections
43.06.300 through 43.06.340 Repealed.

43.06.300 through 43.06.340 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.07 SECRETARY OF STATE

Sections
43.07.210 Filing false statements—Penalty.

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.]

Chapter 43.08 STATE TREASURER

Sections
43.08.180 Cashing checks, drafts, and state warrants—Discretionary—Conditions—Procedure upon dishonor.
43.08.250 Public safety and education account—Creation—Use. (Effective July 1, 1985.)

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.]

43.08.250 Public safety and education account—Creation—Use. (Effective July 1, 1985.) 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 general fund. 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, winter recreation parking, and state game programs. [1984 c 258 § 338.]

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.

Chapter 43.17 ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections
43.17.010 Departments created.
43.17.020 Chief executive officers—Appointment.
43.17.220 Repealed.

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 fisheries, (6) the department of game, (7) the department of transportation, (8) the department of licensing, (9) the department of general administration, (10) the department of commerce and economic development, (11) the department of veterans affairs, (12) the department of revenue, (13) the department of retirement systems, (14) the department of corrections, and (15) the department of community development, 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. [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.]

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.

commerce and economic development: Chapter 43.31 RCW.

community development: Chapter 43.63A RCW.

corrections: Chapter 72.09 RCW.

ecology: Chapter 43.21A RCW.

emergency management: Chapter 38.52 RCW.

employment security: Chapter 50.08 RCW.

fisheries: Chapter 75.08 RCW.

game: Chapter 77.04 RCW.

general administration: Chapter 43.19 RCW.

labor and industries: Chapter 43.22 RCW.

licensing: Chapters 43.24, 46.01 RCW.

natural resources: Chapter 43.30 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 fisheries, (6) the director of game, (7) the secretary of transportation, (8) the director of licensing, (9) the director of general administration, (10) the director of commerce and economic development, (11) the director of veterans affairs, (12) the director of revenue, (13) the director of retirement systems, (14) the secretary of corrections, and (15) the director of community development.

Such officers, except the secretary of transportation and the director of game, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041, and the director of game shall be appointed by the game commission. [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.]

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.

Director of game appointed by state game commission: RCW 77.04.060.

Secretary of transportation appointed by transportation commission: RCW 47.01.041.

43.17.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

Sections

43.19.015	Certain powers and duties of director of public institutions transferred to director of general administration.
43.19.1906	Competitive bids—Sealed bids, exceptions.
43.19.200	Duty of others in relation to purchases—Emergency purchases—Written notifications.

43.19.015 Certain powers and duties of director of public institutions transferred to director of general administration. The director of general administration 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. [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.

43.19.1906 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, as now or hereafter amended. 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 as now or hereafter amended. 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 twenty-five hundred dollars: *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 twenty-five hundred dollar bid limitation: *Provided further*, That the state purchasing and material control director is authorized to reduce this formal sealed bid limit of twenty-five hundred dollars to a lower dollar amount for purchases by individual state agencies, including purchases of specialized equipment, instructional, and research materials by colleges and universities, 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 twenty-five hundred dollars shall be secured from enough vendors to assure establishment of a competitive price. A record of competition for all such purchases from four hundred dollars to twenty-five hundred dollars shall be documented for audit purposes on a standard state form approved by the forms management center under the provisions of RCW 43.19.510. 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 as now or hereafter amended;

(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; and

(6) Purchases by universities for hospital operation made by participating in contracts for materials, supplies, and equipment entered into by cooperative hospital service organizations as defined in section 501(e) of the Internal Revenue Code, or its successor. [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.]

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.

43.19.200 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 legislative budget committee and the director of financial management. The legislative budget committee shall review these notifications for compliance with legislative intent. [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.]

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. (Effective until July 1, 1985.)
- 43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. (Effective July 1, 1985.)

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) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(3) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW. [1984 c 243 § 1.]

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary. (Effective until July 1, 1985.) 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. [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—Sunset Act application: The state board of health is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.213. RCW 36.62.020, 43.20.030, 43.20.050, 43.20.100, 43.20.140, 43.20.200, 69.06.010, 69.06.020, 69.06.050, 69.16.115, 69.16.120, 69.20.095, 69.20.100, 69.30.030, 69.30.050, 69.30.060, 70.01.010, 70.05.110, 70.24.040, 70.24.070, 70.28.035, 70.41.030, 70.54.110, 70.58.350, 70.83.050, and 85.08.020 are scheduled for future repeal under RCW 43.131.214.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

[1984 RCW Supp—page 410]

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. (Effective July 1, 1985.) 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: (1) Sunset Act application: The state board of health is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.213. RCW 36.62.020, 43.20.030, 43.20.050, 43.20.100, 43.20.140, 43.20.200, 69.06.010, 69.06.020, 69.06.050, 69.16.115, 69.16.120, 69.20.095, 69.20.100, 69.30.030, 69.30.050, 69.30.060, 70.01.010, 70.05.110, 70.24.040, 70.24.070, 70.28.035, 70.41.030, 70.54.110, 70.58.350, 70.83.050, and 85.08.020 are scheduled for future repeal under RCW 43.131.214.

(2) This section was amended by 1984 c 287 § 75, effective July 1, 1985, 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.

Chapter 43.20A

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Sections

- 43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses.
- 43.20A.370 State advisory committee to department—Created—Membership—Terms—Vacancies.

43.20A.375 State advisory committee to department—Powers and duties.

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) radiation control; (c) children and youth services; (d) blind services; (e) medical and health care; (f) drug abuse and alcoholism; (g) social services; (h) economic services; (i) vocational services; (j) rehabilitative services; (k) public health 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.

(3) 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. [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: Subsection (2) of this section was vetoed by the governor.

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 fifteen 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, and ethnic balance from throughout the state. A broad range of interests, including business owners, professions, labor, local government, and consumers should be considered for membership. A representative from each of the regional advisory committees established under RCW 43.20A.360 shall serve as a member of the state advisory committee. The members

of the committee shall serve four years, except the terms of the regional advisory committee representatives shall be for a duration specified by the secretary not to exceed four years to facilitate their participation. 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 terms. 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. [1984 c 259 § 2; 1971 ex.s. c 189 § 13.]

Reviser's note—Sunset Act application: The state advisory committee to the department of social and health services is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.221. RCW 43.20A.370, 43.20A.375, and 43.20A.380 are scheduled for future repeal under RCW 43.131.222.

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 biennially review and make recommendations as to the continued operation of department advisory committees other than those provided for 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 using the criteria specified in RCW 43.131.070 and other appropriate criteria.

(4) To develop agendas to foster periodic meetings with and communication between representatives of program-specific advisory committees other than those provided for by federal law. [1984 c 259 § 3; 1971 ex.s. c 189 § 14.]

Sunset Act application: See note following RCW 43.20A.370.

Chapter 43.21A

DEPARTMENT OF ECOLOGY

Sections

- 43.21A.180 Ecological commission—Meetings—Compensation and travel expenses. (Effective July 1, 1985.)
- 43.21A.510 State environmental profile.
- 43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided.

43.21A.180 Ecological commission—Meetings—Compensation and travel expenses. (Effective July 1, 1985.) The commission shall meet quarterly at a date and place of its choice, and at such other times as shall be designated by the director or upon the written request of a majority of the commission. Members of the

commission shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for their travel expenses as provided in RCW 43.03.050 and 43.03.060. [1984 c 287 § 76; 1975-'76 2nd ex.s. c 34 § 100; 1970 ex.s. c 62 § 18.]

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.

43.21A.510 State environmental profile. In order to assist the department of commerce 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. [1984 c 94 § 2.]

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 commerce 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. [1984 c 94 § 3.]

Findings—1984 c 94: See note following RCW 43.21A.510.

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

Sections

43.22.475 Factory built housing and commercial structures, regulating installation of—Advisory board—Members—Appointment—Qualification—Duties—Travel reimbursement. (Effective July 1, 1985.)

43.22.475 Factory built housing and commercial structures, regulating installation of—Advisory

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board—Members—Appointment—Qualification—Duties—Travel reimbursement. (Effective July 1, 1985.) The governor shall appoint a factory built housing and factory built commercial structures advisory board consisting of eleven members. Members appointed shall be broadly representative of the industries and professions involved in the development and construction of factory built housing or factory built commercial structures and shall include representation from building code enforcement agencies, architectural and engineering associations, building construction trades, the contracting and manufacturing industries, legislative bodies of local government, and the general public. The factory built housing and factory built commercial structures 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 when it deems changes advisable. Members shall be entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1984 c 287 § 77; 1975-'76 2nd ex.s. c 34 § 104; 1973 1st ex.s. c 22 § 4; 1970 ex.s. c 44 § 6.]

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.

Chapter 43.24

DEPARTMENT OF LICENSING

Sections

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (Effective July 1, 1985.)

43.24.075 Reports, studies, and recommendations on disciplinary procedures for health and health-related professions.

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. (Effective until July 1, 1985.)

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. (Effective July 1, 1985.)

43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (Effective July 1, 1985.)

(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.

43.24.075 Reports, studies, and recommendations on disciplinary procedures for health and health-related professions. By January 1, 1985, the department of licensing shall conduct a study and submit a report to the senate and house of representatives committees on social and health services on the extent to which the disciplinary authorities specified in RCW 18.130.040 have elected to adopt the provisions of the uniform disciplinary act, chapter 18.130 RCW.

In close cooperation with the disciplinary authorities, the department shall identify those disciplinary provisions existing before the adoption of the new provisions, to determine which are not in conformity and which are useful to retain to supplement the uniform disciplinary act.

The department shall submit, for consideration by the legislative committees, proposed legislation conforming the disciplinary acts existing before June 7, 1984, with those of the uniform disciplinary act and adopted by the disciplinary authorities.

In addition, the department shall study and make recommendations on the propriety of separating investigation and adjudication functions of the boards, and an assessment program of positive reinforcement for assuring the continuing competence of licensees practicing under the laws of the state. [1984 c 279 § 61.]

Severability—1984 c 279: See RCW 18.130.901.

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. (Effective until July 1, 1985.) 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, 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 receive twenty-five dollars per day for each day spent in the performance of their duties and in going to and returning from the place of hearing, and their travel expenses, in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [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—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.

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. (Effective July 1, 1985.) 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, 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. [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.]

Reviser's note: This section was amended by 1984 c 287 § 79, effective July 1, 1985, and by 1984 c 279 § 60, 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.

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.

43.24.140 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 34.04 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 43.31

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Sections

43.31.200	through 43.31.230 Repealed.
43.31.370	Office of international trade—Powers and duties.
43.31.373	Honorary commercial attache program—Findings.
43.31.375	Definitions.
43.31.377	Honorary commercial attache program.
43.31.379	Honorary commercial attaches—Appointment—Approval.
43.31.381	Honorary commercial attaches—Powers and duties.
43.31.383	Honorary commercial attache program—Funds, gifts, grants, etc.—Fees.
43.31.385	Honorary commercial attache program—Reports.
43.31.387	Honorary commercial attaches—Terms.
43.31.390	Information from environmental profile—Use in brochures and presentations—Availability to local economic development groups.
43.31.880	Business coordination act—Grocery business—Master application—Form—Master permit—Total fee—Agencies covered—Renewals.

Department to arrange provision of information on environmental laws: RCW 43.21A.515.

43.31.200 through 43.31.230 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.31.370 Office of international trade—Powers and duties. The department of commerce and economic

development through the office of international trade is hereby designated the agency of state government for the promotion and development of international trade 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, natural resource, and manufacturing commodities of this state in international trade;

(2) To collect, prepare, and analyze international and domestic market data;

(3) To maintain close contact with international firms and governmental agencies and to act as an effective intermediary between nations other than the United States and Washington traders;

(4) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of RCW 43.31.040 and 43.31.350 through 43.31.370;

(5) To encourage and promote the movement of international and domestic goods through the ports of Washington;

(6) To conduct an active program by sending representatives to, or engaging representatives in, other nations to promote the state as an international trade center;

(7) To assist and to make Washington agricultural, natural resource, and manufacturing concerns more aware of the potentials of international trade and to encourage production of those commodities which will have high export potentials and appeal;

(8) To administer state participation in state or international trade fairs;

(9) To coordinate the trade promotional activities of federal, state, and local public agencies, as well as civic organizations;

(10) To administer the honorary commercial attache program established under this chapter. [1984 c 175 § 9; 1967 c 221 § 4.]

Sunset Act application: See note following chapter digest.

Severability—1984 c 175: See note following RCW 43.31.373.

Severability—1967 c 221: See note following RCW 43.31.350.

State international trade fairs: RCW 43.31.790 through 43.31.860.

43.31.373 Honorary commercial attache program—Findings. The Washington state legislature finds that there are various nations that may not be fully aware of the competitive products and services, and opportunities for investment, available in the state of Washington. The legislature further finds that the cost to the state of maintaining numerous offices and employees abroad to promote the products, services, and investment opportunities available in this state may be prohibitive.

The legislature recognizes that there are numerous distinguished and civic minded individuals residing in this state as well as citizens of the United States and other nations who have a broad knowledge of this state and its products. The legislature acknowledges that certain of these individuals may be willing to act as honorary commercial attaches for the state of Washington. [1984 c 175 § 1.]

Reviser's note—Sunset Act application: The honorary commercial attache program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.315. RCW 43.31.373 through 43.31.387 are scheduled for future repeal under RCW 43.131.316.

Severability—1984 c 175: "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 175 § 11.]

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

(1) "Attache" means an honorary commercial attache.

(2) "Department" means the department of commerce and economic development, or its successor agency.

(3) "Director" means the director of commerce and economic development, or its successor agency.

(4) "Office" or "office of international trade" means the office of international trade of the department of commerce and economic development, or its successor agency.

(5) "Program" means the honorary commercial attache program. [1984 c 175 § 2.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.377 Honorary commercial attache program.

There is established within the office of international trade the honorary commercial attache program.

The office in administering the program, shall:

(1) Identify candidate attaches by accepting recommendations and soliciting referrals from Washington state businesses having extensive overseas trade involvement, state universities with foreign student exchange programs, local internationally oriented societies and trade groups, international consulates, various levels of government, and other sources.

(2) Screen applicants to determine their suitability to ably represent the state as honorary commercial attaches, including:

(a) Making formal inquiry to the United States commercial attache in the appropriate United States embassy or consulate general;

(b) Conducting background research and reference evaluation as necessary to ensure that the applicant is a distinguished and respected member of his or her profession;

(3) Make its report and recommendations to the governor and the president of the senate regarding applicants;

(4) Provide a comprehensive orientation on state products and services and opportunities for investment in the state on an ongoing basis to attaches;

(5) Prepare and provide the necessary brochures, pamphlets, and materials for use and distribution by attaches;

(6) Target those regions and countries in which an attache would be most beneficial; and

(7) Assist the attaches in the execution of their duties including providing guidance on developing trade and

investment leads and acting as a focal point for all resulting communications between international companies and individuals with the state.

The department may administer the honorary commercial attache program in conjunction with other similar programs. [1984 c 175 § 3.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.379 Honorary commercial attaches—Appointment—Approval.

Honorary commercial attaches shall be appointed by the governor, with approval by the president of the senate, from recommendations submitted by the director of commerce and economic development. Upon appointment, an honorary commercial attache shall receive from the governor an official certificate and letter of appointment and the state flag. These articles may be used by the attache in the conduct of his or her official duties. [1984 c 175 § 4.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.381 Honorary commercial attaches—Powers and duties. Honorary commercial attaches shall act as representatives of the state in promoting international investment, trade, and tourism in Washington state in a manner consistent with this chapter.

The office shall coordinate the development of the attaches' agendas and long-term and short-term plans for the activities of the attaches. An attache shall avoid conducting private or personal business when acting as a representative of the state of Washington. In any situation presenting a possible or apparent conflict of interest, the attache shall notify the director who shall recommend appropriate action. Honorary commercial attaches shall not receive compensation, or reimbursement for travel or any other expenses associated with their duties. [1984 c 175 § 5.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.383 Honorary commercial attache program—Funds, gifts, grants, etc.—Fees. The department through the office may:

(1) Receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement RCW 43.31.373 through 43.31.387;

(2) Receive such gifts, grants, and endowments from private or public sources as may be made available, in trust or otherwise, for the use and benefit of the honorary commercial attache program, and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments; and

(3) Charge reasonable fees or other appropriate charges for using the office's services, attendance at workshops and conferences sponsored by the office, and for various publications and materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of the office in

administering the honorary commercial attache program. [1984 c 175 § 6.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.385 Honorary commercial attache program—Reports. The director of commerce and economic development, or its successor agency, shall report annually to the appropriate legislative committees with special emphasis on the honorary commercial attache program's impact on the economy of the state; the number of honorary commercial attaches; and recommendations regarding the program. [1984 c 175 § 7.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.387 Honorary commercial attaches—Terms. Honorary commercial attaches shall serve at the pleasure of the governor who may revoke their certificates of appointment at any time, after consultation with the president of the senate. [1984 c 175 § 8.]

Sunset Act application: See note following RCW 43.31.373.

Severability—1984 c 175: See note following RCW 43.31.373.

43.31.390 Information from environmental profile—Use in brochures and presentations—Availability to local economic development groups. The department of commerce and economic development 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. [1984 c 94 § 4.]

Findings—1984 c 94: See note following RCW 43.21A.510.

43.31.880 Business coordination act—Grocery business—Master application—Form—Master permit—Total fee—Agencies covered—Renewals. (1) Any person proposing a new grocery operation after June 30, 1976, shall submit a master application to the department requesting the issuance of all permits necessary prior to opening a new operation in the state of Washington. The master application shall be on a form furnished by the department and shall contain in consolidated form all information necessary for the various state agencies to issue a permit. These provisions apply to persons seeking to continue an existing operation after January 1, 1977.

(2) Upon receipt of a properly completed master application the department shall immediately send a copy to each state agency with potential jurisdiction over the proposed operation. Each notified agency shall respond in writing to the department within a reasonable time, as determined by the department, advising the department and the applicant (a) that it approves the application; (b) that it approves with certain conditions as specified;

or (c) that it denies the application with reasons given for the denial.

The department shall then issue a master permit covering all the approvals and conditions excluding any denials. It is the responsibility of the applicant to make appeals on conditions imposed or on permit denials through that normal appeal process established by the agency with jurisdiction for issuing the permit.

(3) A total fee based on the sum of fees for individual permits requested shall accompany each master application and shall be collected by the department and used to reimburse the various state agencies according to their schedules. The issuance of a master permit is in lieu of any permit, certificate, or similar document required by any agency listed in subsection (4) of this section.

(4) All permits and inspections related to grocery operations by the following state agencies are covered under RCW 43.31.870 through 43.31.910:

- (a) Department of revenue;
- (b) Department of labor and industries;
- (c) Department of employment security;
- (d) Department of agriculture;
- (e) Department of fisheries;
- (f) Liquor control board;
- (g) State pharmacy board;
- (h) Department of transportation; and
- (i) Any other state agency, that may now or in the future issue permits or make inspections of grocery operations.

Nothing in this section may be construed to eliminate state or local governmental health or safety inspections.

(5) All individual permits covered by RCW 43.31.870 through 43.31.910 shall expire according to a staggered schedule to be specified by the department of commerce and economic development. Costs for permits issued in the interim will be prorated according to the time each permit is in force.

(6) Starting January 1, 1977, annual renewals for all individual permits shall be replaced by a master permit issued by the department of commerce and economic development. Renewals shall be automatically granted under conditions originally imposed unless one of the regulatory agencies informs the department of revised restrictions to be imposed prior to such issuance. [1984 c 7 § 46; 1975-'76 2nd ex.s. c 68 § 3.]

Sunset Act application: See note following chapter digest.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1975-'76 2nd ex.s. c 68: See note following RCW 43.31.870.

Chapter 43.31B

OFFICE OF INTERNATIONAL INVESTMENT

Sections	
43.31B.010	Findings.
43.31B.020	Definitions.
43.31B.030	Office of international investment—Established—Powers and duties.
43.31B.040	Funds, gifts, grants, etc.—Fees.
43.31B.050	Reports.

43.31B.900 Severability—1984 c 176.

Reviser's note—Sunset Act application: The office of international investment is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.317. RCW 43.31B.010 through 43.31B.050 are scheduled for future repeal under RCW 43.131.318.

Honorary commercial attache program: RCW 43.31.373 through 43.31.387.

43.31B.010 Findings. The Washington state legislature finds that appropriate international investment is beneficial to the economy of this state and is a viable and needed avenue for economic development. The legislature further finds that other states and nations are actively involved in promoting international investment and have been successful in their endeavors.

It is the legislature's intent, by fostering the growth of appropriate international investment in this state, to attract new businesses and industries and in so doing provide employment to citizens of Washington state. [1984 c 176 § 1.]

Sunset Act application: See note following chapter digest.

43.31B.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Office" means the office of international investment within the department of commerce and economic development or its successor agency;

(2) "Department" means the department of commerce and economic development or its successor agency. [1984 c 176 § 2.]

Sunset Act application: See note following chapter digest.

43.31B.030 Office of international investment—Established—Powers and duties. There is established within the department an office of international investment. The department through the office of international investment shall:

(1) Provide a focal point for investors from nations other than the United States of America in their dealings with federal, state, and local governments including providing ready access to information regarding government requirements which affect international investors, including, but not limited to:

(a) The necessary immigration procedures and requirements for foreign nationals intending to live or living in Washington in connection with the normal operation of their business;

(b) The necessary licenses, certificates, evaluations, and other requirements for establishing new businesses in this state;

(c) The taxes and other costs associated with their businesses; and

(d) The necessary requirements associated with the transfer of funds to and from this nation and this state;

(2) Develop programs to attract investors from nations other than the United States of America including:

(a) Conducting the necessary research to develop such programs;

(b) Evaluating the international investment programs or other similar programs of other states and nations that have proved to be successful;

(c) Identifying, after taking into consideration long-term and short-term effects:

(i) Those nations or regions to which Washington is most uniquely suitable for investment;

(ii) Those industries and businesses most suitable and likely to be attracted to Washington state;

(3) Provide the necessary information to state and local governments concerning how their requirements, rules, and restrictions may impede or promote international investment;

(4) Coordinate with local economic development agencies in developing local international investment plans which can be integrated into a state-wide program;

(5) Coordinate with schools, community colleges, colleges, universities, and other public and private educational programs to the extent practicable in providing information, training, social, lingual, and cultural assistance to investors from nations other than the United States of America and their employees;

(6) Provide the necessary site evaluations, labor market statistics, transportation information, and cost analyses to interested investors from nations other than the United States of America;

(7) Collect, prepare, and analyze international and domestic investment information data, and develop a long-term and short-term strategic plan for the office;

(8) Prepare and disseminate the necessary brochures and pamphlets concerning international investment in this state;

(9) Foster closer ties between nations other than the United States of America and Washington to the end that social, cultural, and economic barriers to investment may be reduced to a minimum;

(10) Provide in cooperation with institutions of higher learning or other state and federal programs a professional research and counseling service to foreign investors wishing to invest in Washington; and

(11) Provide other appropriate assistance to investors from nations other than the United States of America.

The department may administer the office of international investment in conjunction with other similar programs. [1984 c 176 § 3.]

Sunset Act application: See note following chapter digest.

43.31B.040 Funds, gifts, grants, etc.—Fees. The department through the office of international investment may:

(1) Receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement this chapter;

(2) Receive such gifts, grants, and endowments from private or public sources as may be made available, in trust or otherwise, for the use and benefit of the office of international investment, and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments; and

(3) Charge reasonable fees or other appropriate charges for using the office's services, attendance at workshops and conferences sponsored by the office, and for various publications and materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of the office. [1984 c 176 § 4.]

Sunset Act application: See note following chapter digest.

43.31B.050 Reports. The director of commerce and economic development, or its successor agency, shall report annually to the appropriate legislative committees with special emphasis on the office of international investment's impact on the economy of the state; the number of investors from nations other than the United States of America to which the office provided assistance; the number of businesses owned or controlled by investors who are citizens of nations other than the United States of America successfully operating as a result of the program; and recommendations regarding the program. The initial annual report shall include a long-term and short-term strategic plan for the office. [1984 c 176 § 5.]

Sunset Act application: See note following chapter digest.

43.31B.900 Severability—1984 c 176. 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 176 § 8.]

Chapter 43.33A

STATE INVESTMENT BOARD

Sections

43.33A.050 Compensation of members—Travel expenses. (Effective July 1, 1985.)

43.33A.050 Compensation of members—Travel expenses. (Effective July 1, 1985.) 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.

Chapter 43.43

WASHINGTON STATE PATROL

Sections

43.43.060 Suspension or demotion of probationary officers.
43.43.070 Discharge of probationary officers—Discharge, demotion, or suspension of nonprobationary officers—Complaint—Hearing.
43.43.090 Procedure at hearing.
43.43.100 Review of order.
43.43.225 Payment of legal and medical expenses of retirement system.
43.43.270 Retirement allowances.
43.43.360 Probationary period.
43.43.550 Traffic safety education officers—Powers—Pay and reimbursement.
43.43.700 Identification and criminal history section—Established—Powers and duties generally.

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.]

43.43.090 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 in the case of acquittal. In the event of conviction the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of. [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.]

43.43.225 Payment of legal and medical expenses of retirement system. The director is authorized to pay from the interest earnings of the trust funds of the system lawful obligations of the system for legal expenses and medical expenses which expenses are primarily incurred for the purpose of protecting the trust fund or are incurred in compliance with statutes governing such funds.

The term "legal expense" includes, but is not limited to, legal services provided through the legal services revolving fund, fees for expert witnesses, travel expenses, fees for court reporters, cost of transcript preparation, and reproduction of documents.

The term "medical costs" includes, but is not limited to, expenses for the medical examination or reexamination of members or retirees, the costs of preparation of medical reports, and fees charged by medical professionals for attendance at discovery proceedings or hearings. [1984 c 184 § 8.]

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

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 combined 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 and if all contributions paid to the retirement fund have been left in the retirement fund. In the event that contributions have been refunded

to a member on disability retirement, he may regain eligibility for survivor's benefits by repaying to the retirement fund the total amount refunded to him plus two and one-half percent interest, compounded annually, covering the period during which the refund was held by him. [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.]

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.] "This act" consists of the 1984 c 206 amendment to RCW 43.43.270.

Effective dates—1982 1st ex.s. c 52: See note following RCW 41.32.401.

Construction—1969 c 12: See note following RCW 43.43.120.

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.]

43.43.550 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 statewide. [1984 c 217 § 1.]

43.43.700 Identification and criminal history section—Established—Powers and duties generally. There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section.

[1984 RCW Supp—page 420]

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. [1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

Chapter 43.49

COLUMBIA BASIN COMMISSION

Sections

43.49.010 Commission created—Composition—Travel expenses. (Effective July 1, 1985.)

43.49.010 Commission created—Composition—Travel expenses. (Effective July 1, 1985.) There shall be a nonsalaried commission to be known as the Columbia Basin commission, which shall consist of seven members, namely: One member designated by and from among the directors of the Quincy-Columbia Basin irrigation district, one designated by and from among the directors of the East Columbia Basin irrigation district, one designated by and from among the directors of the South Columbia Basin irrigation district; three members appointed by the governor, and removable by him at his pleasure; and the director of conservation who shall be chairman of the commission.

Not later than the first day of February each year, each of the respective irrigation district boards shall select one of its members to serve on the Columbia Basin commission for the ensuing year, and shall thereupon forthwith certify such selection to the governor. The term of any member designated by an irrigation district shall terminate when his successor has been certified to the governor or upon the expiration of his term as irrigation district director.

Each member of the commission, except the director of conservation, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 81; 1965 c 8 § 43.49.010. Prior: 1943 c 283 § 1; 1933 c 81 § 1; RRS § 3017-1.]

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

Chapter 43.51

PARKS AND RECREATION COMMISSION

Sections

43.51.020 Commission created—Composition—Compensation and expenses. (Effective July 1, 1985.)

43.51.045	Additional powers and duties.
43.51.047	Sale of timber.
43.51.200	Transfer of surplus land—Reversionary clause required—Release—Parkland acquisition account.
43.51.210	Disposal of land not needed for park purposes.
43.51.395	Declaration of policy—Lands for public park purposes.
43.51.400	Powers and duties—Program of boating safety education—Inventory of marine state parks and recreational facilities—Casualty and accident reporting program.
43.51.402	Casualty and accident reports—Confidentiality—Use as evidence.
43.51.405	Transfer of management control of portion of Milwaukee Road corridor to commission.
43.51.407	Duties with respect to Milwaukee Road corridor.
43.51.409	Additional duties with respect to Milwaukee Road corridor.
43.51.411	Recreation trail on Milwaukee Road corridor.

43.51.020 Commission created—Composition—Compensation and expenses. (Effective July 1, 1985.)

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.

43.51.045 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.]

43.51.047 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.]

43.51.200 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 in the state general fund, which is hereby created. 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. [1984 c 87 § 1.]

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.

43.51.395 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—Inventory of marine state parks and recreational facilities—Casualty and accident reporting program. 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 34.04 RCW, consistent with United States coast guard regulations, standards, and precedents, as needed for the efficient administration and enforcement of this section;

(3) Develop by January 31, 1984, a state-wide inventory of marine state parks and recreational facilities operated by other state and local agencies that are available for marine-related use by persons owning boats in this state;

(4) Enter into agreements aiding the administration of this chapter;

(5) Adopt and administer a casualty and accident reporting program consistent with United States coast guard regulations;

(6) Adopt and enforce recreational boating safety rules, including but not necessarily limited to equipment and navigating requirements, consistent with United States coast guard regulations;

(7) 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; 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. [1984 c 183 § 4; 1983 2nd ex.s. c 3 § 52.]

Penalties for violations: RCW 88.02.110.

43.51.402 Casualty and accident reports—Confidentiality—Use as evidence. (1) All reports made to the commission pursuant to RCW 88.02.080 and 43.51.400 shall be without prejudice to the person who makes the report and shall be for the confidential usage of governmental agencies, except as follows:

(a) Statistical information which shall be made public;

(b) The names and addresses of the operator and owner and the registration number or name of the vessel as documented which was involved in an accident or casualty and the names and addresses of any witnesses which, if reported, shall be disclosed upon written request to any person involved in a reportable accident, or, for a reportable casualty, to any member of a decedent's family or the personal representatives of the family.

(2) A report made to the commission pursuant to RCW 88.02.080 and 43.51.400 or copy thereof shall not be used in any trial, civil or criminal, arising out of an accident or casualty, except that solely to prove a compliance or failure to comply with the report requirements of RCW 88.02.080 and 43.51.400, a certified statement which indicates that a report has or has not been made to the commission shall be provided upon demand to any court or upon written request to any person who has or claims to have made a report. [1984 c 183 § 3.]

43.51.405 Transfer of management control of portion of Milwaukee Road corridor to commission. Management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the western end of the tunnel located in the southeast corner of section 20, township 19 north, range 17 east, W.M., approximately twenty-five miles east of the western terminus, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission. [1984 c 174 § 2.]

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 Duties with respect to Milwaukee Road corridor. 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, 17.08, and 17.10 RCW; and

(6) Clean and maintain culverts. [1984 c 174 § 3.]

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.409 Additional duties with respect to Milwaukee Road corridor. 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. [1984 c 174 § 4.]

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.

Chapter 43.52A

ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL—STATE'S MEMBERS

Sections

43.52A.030 Appointment of members.

43.52A.040 Terms of members—Vacancies—Residence of members.

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.]

Chapter 43.57

INTERSTATE COMPACT COMMISSION

Sections

43.57.020 Powers and duties—Term of office—Compensation and travel expenses. (Effective July 1, 1985.)

43.57.020 Powers and duties—Term of office—Compensation and travel expenses. (Effective July 1, 1985.) The commission representing the state on the joint commission shall have full authority to consider and carry on negotiations for such agreement or compact, to attend meetings of the joint commission convening in or out of the state, to employ clerical, legal, and engineering assistance, and generally to perform such duties as shall be required of the members thereof in carrying out the purpose and intent of this chapter; the term of office of the commissioners shall be from June 11, 1953, until an agreement or compact binding on the state of Washington under the provisions of RCW 43.57.030 has been entered into: *Provided, however,* That when a member of the commission is a member of the house of representatives, his term on the commission shall expire when he ceases to be a member of the house, and when a member of the commission is a member of the senate, his term on the commission shall expire when he ceases to be a member of the senate. Any vacancies occurring in the membership of the commission shall be filled by the appointive power shown in RCW 43.57.010. Members of the commission representing the state who are not in the regular employ of the state shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred while away from their respective places of abode in accordance with RCW 43.03.050 and 43.03.060. Members of the commission who are in the regular employ of the state shall receive reimbursement for travel expenses incurred while away from their respective places of abode in accordance with RCW 43.03.050 and 43.03.060. Payment of all expenses incurred by the interstate compact commission, including the expenses of its members, shall be

made on vouchers approved by its chairman. [1984 c 287 § 83; 1975-'76 2nd ex.s. c 34 § 119; 1965 ex.s. c 164 § 1; 1965 c 8 § 43.57.020. Prior: 1953 c 130 § 2; 1951 c 113 § 2.]

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.

Chapter 43.63A

DEPARTMENT OF COMMUNITY DEVELOPMENT

(Formerly: Planning and community affairs)

Sections

43.63A.010 Repealed.
 43.63A.020 Definitions.
 43.63A.030 Department established—Purpose of chapter.
 43.63A.040 Director—Appointment, term, salary.
 43.63A.045 References to planning and community affairs agency and director mean department of community development and director.
 43.63A.060 Powers and duties of director.
 43.63A.065 Functions and responsibilities of department.
 43.63A.070 Repealed.
 43.63A.075 Community development finance program.
 43.63A.078 Local development matching fund program—Reports.
 43.63A.080 Repealed.
 43.63A.095 Local community and economic development strategies.
 43.63A.100 Coordination of community affairs activities and programs.
 43.63A.105 Considerations in designating local community action and community service agencies.
 43.63A.110 Repealed.
 43.63A.190 Distribution of funds for border areas.
 43.63A.200 Loans for public works. (Effective July 1, 1985.)
 43.63A.901 Severability—1984 c 125.
 43.63A.902 Headings—1984 c 125.
 43.63A.903 Effective date—1984 c 125.

Reviser's note—Sunset Act application: The department of community development is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.189. RCW 43.63A.020 through 43.63A.040, 43.63A.050 through 43.63A.065, 43.63A.090, 43.63A.100 through 43.63A.190, and 43.63A.900 are scheduled for future repeal under RCW 43.131.190.

43.63A.010 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.020 Definitions. For the purposes of this chapter and unless the context shall clearly indicate otherwise:

(1) "Department" means the department of community development.

(2) "Director" means the director of community development. [1984 c 125 § 2; 1967 c 74 § 2.]

Sunset Act application: See note following chapter digest.

Effective date—1967 c 74: "This act shall take effect on July 1, 1967." [1967 c 74 § 15.]

Construction—1967 c 74: "The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at date this act becomes effective." [1967 c 74 § 17.]

43.63A.030 Department established—Purpose of chapter. There is hereby established to carry out the

purposes of this chapter a department of state government to be known as the department of community development.

The purpose of this chapter is to establish a department of the state to aid in providing 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 access to opportunities for productive and coordinated development beneficial to the well-being of the communities and their residents. [1984 c 125 § 1; 1967 c 74 § 3.]

Sunset Act application: See note following chapter digest.

Effective date—Construction—1967 c 74: See notes following RCW 43.63A.020.

43.63A.040 Director—Appointment, term, salary.

The executive head of the department shall be a director appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. [1984 c 125 § 3; 1975 c 40 § 10; 1967 c 74 § 4.]

Sunset Act application: See note following chapter digest.

Effective date—Construction—1967 c 74: See notes following RCW 43.63A.020.

43.63A.045 References to planning and community affairs agency and director mean department of community development and director. References in the Revised Code of Washington to the planning and community affairs agency and to the director of planning and community affairs shall be construed to mean the department of community development and the director of community development, respectively. [1984 c 125 § 21.]

43.63A.060 Powers and duties of director. The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to matters affecting the communities of the state generally and more especially on the extent the state should participate in the provision of services to such communities.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; the director may act for the state in the initiation of or participation in any multi-governmental program relative to the purposes of this chapter; and the director may accept gifts and grants, whether such grants be of federal or other funds. 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. The director shall prepare and submit for executive and legislative action thereon the budget for the department; the director shall make a report to the governor and to the legislature in 1985 and biennially thereafter on the activities of the department and the nature of existing community problems, and after consultation with and approval by the governor, submit such recommendations for legislative action as deemed necessary to further the purposes of this chapter;

and the director shall make such rules and regulations and do all other things necessary and proper to carry out the purposes of this chapter.

The director may delegate such functions, powers and duties to other officers and employees of the department as the director deems expedient to the furtherance of the purposes of this chapter. [1984 c 125 § 4; 1967 c 74 § 6.]

Sunset Act application: See note following chapter digest.

Effective date—Construction—1967 c 74: See notes following RCW 43.63A.020.

43.63A.065 Functions and responsibilities of department. The department shall have the following functions and responsibilities:

(1) Cooperate with and provide technical and financial assistance to the local governments and to the local agencies serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state.

(2) Administer state and federal grants and programs which are assigned to the department by the governor or the legislature.

(3) Administer community services programs through private, nonprofit organizations and units of general purpose local government; these programs are directed to the poor and infirm and include community-based efforts to foster self-sufficiency and self-reliance, energy assistance programs, head start, and weatherization.

(4) Study issues affecting the structure, operation, and financing of local government as well as those state activities which involve relations with local government and report the results and recommendations to the governor, legislature, local government, and citizens of the state.

(5) Assist the governor in coordinating the activities of state agencies which have an impact on local governments and communities.

(6) Provide technical assistance to the governor and the legislature on community development policies for the state.

(7) Assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for low and moderate income persons, and qualify as a participating state agency for all programs of the Department of Housing and Urban Development or its successor.

(8) Support and coordinate local efforts to promote volunteer activities throughout the state.

(9) 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 or their subdivisions.

(10) Hold public hearings and meetings to carry out the purposes of this chapter. [1984 c 125 § 5.]

Sunset Act application: See note following chapter digest.

43.63A.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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; (2) assist communities and businesses to secure available financing; and (3) work closely with the department of commerce and economic development on financial and technical assistance programs available to small and medium sized businesses. To the extent permitted by federal law, the department 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. [1984 c 125 § 6.]

43.63A.078 Local development matching fund program—Reports. The department shall develop and administer a local development matching fund program. To be eligible to receive funds under this program, an organization must be a local government or a nonprofit local development entity. Any local government or entity requesting funds must demonstrate the participation of a cross-section of the local community in the economic development project, including business, labor, education and training, and the public sector. Under this program, the department shall provide matching funds which shall be used for the formulation of local economic development strategies, including the technical analysis necessary to designate and carry out the strategies. A technical analysis can include, but is not limited to, the development and dissemination of data on local markets, demographics, comparative business costs, site availability, labor force characteristics, and local incentives. Funds are to be used primarily to foster new developments and expansions which result in the trading of goods and services outside of the state's borders. Funds may be made available for assisting local businesses in utilizing state and federal programs in exporting, training, and financing. Funds may also be used to provide technical assistance to businesses in the areas of land use, transportation, site location, and manpower training. Matching funds cannot be used for entertainment, capital expenses, hosting, or marketing. Funds granted for economic development projects must be matched by local resources on a dollar-for-dollar basis. Not more than fifty thousand dollars of state matching funds as provided by this section may be used for any one project.

The department shall report annually on December 31 to the governor and the legislature on funds expended and projects developed using matching funds. [1984 c 125 § 7.]

43.63A.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.63A.095 Local community and economic development strategies. The department shall assist in the fostering of local community and economic development strategies which facilitate effective partnerships between the public and private sectors. [1984 c 125 § 8.]

43.63A.100 Coordination of community affairs activities and programs. The legislature hereby declares that the successful execution of the purposes of this chapter is dependent upon all activities and programs of those state agencies which might have an impact on community affairs being fully coordinated with the department. [1984 c 125 § 9; 1967 c 74 § 10.]

Sunset Act application: See note following chapter digest.

Effective date—Construction—1967 c 74: See notes following RCW 43.63A.020.

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.]

Sunset Act application: See note following chapter digest.

43.63A.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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 34.04 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.]

Sunset Act application: See note following chapter digest.

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.200 Loans for public works. (Effective July 1, 1985.) The *director of planning and community affairs shall make loans to cities, towns, counties, and special purpose districts of the state for the construction, replacement, rehabilitation, or improvement of roads, bridges, sewers, water systems, dams, lighting, signalization, and traffic flow systems from moneys appropriated therefor from the public works assistance account under RCW 43.79.450. Repayments of loans made under this section and the interest thereon shall be deposited in the public works assistance account.

The *director of planning and community affairs may accept any federal funds which may be available for the

purposes of this section and shall deposit such funds in the public works assistance account. [1984 c 244 § 1.]

***Reviser's note:** "Director of planning and community affairs" means "director of community development." See RCW 43.63A.045.

Effective dates—1984 c 244: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing institutions, and shall take effect immediately, except sections 1 and 2 of this act shall take effect July 1, 1985." [1984 c 244 § 6.] "Sections 1 and 2 of this act" consist of the enactment of RCW 43.63A.200 and 43.79.450. The effective date of the remainder of the act is March 27, 1984.

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 43.79 STATE FUNDS

Sections

- 43.79.450 Public works assistance account established in general fund—Transfers from general fund—Use—Limitation on issuance of bonds—Pledge and promise of bonds—Remedies of bondholders. (Effective July 1, 1985.)
- 43.79.452 Deposit of bond proceeds—Public works assistance account established in general fund—Use.

43.79.450 Public works assistance account established in general fund—Transfers from general fund—Use—Limitation on issuance of bonds—Pledge and promise of bonds—Remedies of bondholders. (Effective July 1, 1985.) (1) The public works assistance account is hereby established in the general fund. At the beginning of each biennium after June 30, 1985, the state treasurer shall transfer from the general fund to the public works assistance account an amount of money which, when combined with money remaining in the account from the previous biennium excluding proceeds from the sale of bonds, will equal ten million dollars.

(2) Moneys in the public works assistance account may be spent only for payment of the principal of and interest on bonds issued under RCW 43.79.452, and other purposes related to loans under RCW 43.63A.200 as specified by legislative appropriation.

(3) Bonds for which revenues to the public works assistance account have been pledged shall not be issued if such bonds will cause the aggregate debt for which revenues to the public works assistance account will be pledged to exceed that amount for which payments of

principal and interest in any fiscal year will equal projected revenues to the public works assistance account for that fiscal year. However, bonds for which revenues to the public works assistance account have been pledged are general obligations of the state of Washington and shall pledge the full faith and credit of the state to 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 244 § 2.]

Effective dates—1984 c 244: See note following RCW 43.63A.200.

43.79.452 Deposit of bond proceeds—Public works assistance account established in general fund—Use. The proceeds from the sale of bonds for loans under RCW 43.63A.200 shall be deposited in the public works assistance account hereby established in the general fund. Moneys in the public works assistance account may be spent only after appropriation for loans under RCW 43.63A.200. [1984 c 244 § 3.]

Effective dates—1984 c 244: See note following RCW 43.63A.200.

Chapter 43.79A TREASURER'S TRUST FUND

Sections

- 43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.

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. [1984 c 7 § 47; 1973 1st ex.s. c 15 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 43.80
FISCAL AGENCIES

Sections

43.80.100 Definitions.

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.

Chapter 43.83
CAPITAL IMPROVEMENTS

Sections

1984 BOND ISSUE

43.83.198	General obligation bonds—Authorized—Issuance—Price—Appropriation required.
43.83.200	Deposit of proceeds in state building construction account—Use.
43.83.202	Administration of proceeds.
43.83.204	Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
43.83.206	Legislature may provide additional means for payment of bonds.
43.83.208	Bonds legal investment for public funds.
43.83.210	Severability—1984 c 271.

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 43.83H

SOCIAL AND HEALTH SERVICES FACILITIES— BOND ISSUES

Sections

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.915 Severability—1984 c 269.

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.]

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 43.85
STATE DEPOSITARIES

Sections

43.85.020	Repealed.
43.85.230	Investment deposits and rate of interest—Term deposit basis.
43.85.270	Repealed.

43.85.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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 one year 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. [1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Severability—1983 c 66: See note following RCW 39.58.010.

43.85.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.88
BUDGET AND ACCOUNTING

Sections

43.88.020	Definitions.
43.88.027	Annual financial report.
43.88.030	Content of the budget document or documents—Separate budget document or schedules—Changes.
43.88.037	Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform—Changes to be explained.
43.88.090	Development of budget—Agencies to establish goals and objectives—Reports.
43.88.110	Expenditure programs—Allotments—Reserves.
43.88.112	Revision of allotments for funds appropriated to the superintendent of public instruction.
43.88.120	Revenue estimates.
43.88.540	Budget stabilization account—Resumption of deposits.

43.88.020 Definitions. (1) "Budget" shall mean a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" shall mean a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" shall mean 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" shall mean and include 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, shall mean 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" shall mean the policies, standards and requirements, stated in writing, designed to carry out the purposes of this chapter, as issued by the governor or his designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" shall mean 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" shall 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 82.01.120. [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.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Office of financial management: Chapter 43.41 RCW.

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 Content of the budget document or documents—Separate budget document or schedules—

Changes. (1) 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 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 based upon estimated revenues for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document: *Provided*, That the governor may additionally submit, as an appendix to each 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.

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, and those anticipated for the ensuing biennium;

(b) Cash surplus or deficit, by fund, to the extent provided by RCW 43.88.040 and 43.88.050;

(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; and

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury.

(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 anticipated revenues 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.

(3) A separate budget document or schedule may be submitted consisting of:

(a) Expenditures incident to current or pending capital projects and to proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts proposed to be raised therefor by the issuance of bonds during the fiscal period;

(b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period. The capital program shall include for each proposed project a statement of the reason or purpose for the project along with an estimate of its cost;

(c) Such other information bearing upon capital projects as the governor shall deem to be useful to the legislature;

(d) Such other information relating to capital improvement projects as the legislature may direct by law or concurrent resolution.

(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. [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.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.037 Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform—Changes to be explained. (1) The director shall devise and maintain a comprehensive budgeting, accounting, and reporting system in conformance with generally accepted accounting principles applicable to state governments.

(2) The director shall submit a budget document in conformance with generally accepted accounting principles applicable to state governments for the period commencing July 1, 1987, and all ensuing periods.

(3) Any changes affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance, and personnel as a result of any changes resulting from subsection (2) of this section shall be clearly and completely explained in the text of the budget document, in a special appendix thereto, or in an alternative budget document. [1984 c 247 § 1.]

43.88.090 Development of budget—Agencies to establish goals and objectives—Reports. (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. 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.

(2) Estimates from each agency shall include goals and objectives for each program administered by the agency. The goals and objectives shall, whenever possible, be stated in terms of objective measurable results. 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.

(3) Each agency shall submit to the office of financial management a report by September 15 of each odd-numbered year on its performance toward the goals and objectives established for the previous fiscal biennium and the goals and objectives established for the current fiscal biennium. Copies of the reports shall be transmitted by the office of financial management to the standing committees on ways and means of the house of representatives and senate and the legislative budget committee by December 31 of each odd-numbered year.

(4) 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. [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.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.110 Expenditure programs—Allotments—Reserves. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds. Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(1) Before the beginning of the fiscal period, all agencies shall submit to the governor a statement of proposed agency expenditures at such times and in such form as may be required by the governor. The statement of proposed expenditures shall show, among other things, the requested allotments of public funds for the ensuing fiscal period for the agency concerned on a monthly basis for the entire fiscal period. The governor shall review the requested allotments in the light of the agency's plan of work and, with the advice of the director of financial management, the governor may revise or alter agency allotments: *Provided*, That revision of allotments shall not be made for agencies headed by elective officials pursuant to this subsection. The aggregate of the allotments for an appropriation shall not exceed the total appropriation.

(2) Except for the legislative and judicial branches of government, approved allotments may be revised during the course of the fiscal period in accordance with the regulations issued pursuant to this chapter. If at any time during the fiscal period the governor shall ascertain that estimated revenues for the applicable period will be less than the respective appropriations, the governor shall revise the allotments concerned so as to prevent the making of expenditures in excess of estimated revenues. To the same end, the governor is authorized to withhold and to assign to, and to remove from, a reserve status any portion of an agency appropriation which in the governor's discretion is not needed for the allotment.

No expenditures shall be made from any portion of an appropriation which has been assigned to a reserve status except as provided in this section.

(3) 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. The director of financial management shall monitor agency expenditures to prevent spending patterns which inflate agency expenditures during the second year of a biennium.

(4) 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. [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.]

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.

43.88.112 Revision of allotments for funds appropriated to the superintendent of public instruction. If at any time during the fiscal period the governor ascertains that estimated revenues for the applicable period will be less than the respective appropriations, the governor shall revise the allotments for the total funds which are appropriated to the superintendent of public instruction for support of state-wide programs and which ultimately will be distributed to local school districts so as to prevent the making of expenditures in excess of estimated revenues, but the governor shall not revise the allotments for the superintendent of public instruction for support of state-wide programs by an amount which would result in less than ample provision for the basic education of the children of the state. [1984 c 138 § 9; 1982 2nd ex.s. c 15 § 2; 1981 c 270 § 7.]

Severability—1982 2nd ex.s. c 15: See note following RCW 43.88.110.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.120 Revenue estimates. Each agency engaged in the collection of revenues shall prepare statements of revenue collections and estimates for the current and ensuing biennium and shall submit the statements and estimates to the director of revenue at times and in the form specified by the director, along with any other information which the director may request.

A copy of such collection reports and revenue estimates shall be simultaneously submitted to the economic and revenue forecast work group. [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—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.540 Budget stabilization account—Resumption of deposits. 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.

Chapter 43.97

COLUMBIA RIVER GORGE COMMISSION

Sections

43.97.080 Staff services of department of community development—Authorized.

43.97.080 Staff services of department of community development—Authorized. The department of community development is hereby authorized to provide certain staff services from its existing personnel as are feasible and necessary to assist the commission to perform its duties and powers as set forth in the provisions of this chapter. [1984 c 125 § 15; 1975 1st ex.s. c 48 § 7.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Chapter 43.99

MARINE RECREATION LAND—INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Sections

43.99.110 Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses. (Effective July 1, 1985.)

43.99.110 Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses. (Effective July 1, 1985.) There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, the director

of game, the director of fisheries, 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. [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.

Energy facility site evaluation council, membership: RCW 80.50.030.

Chapter 43.101

CRIMINAL JUSTICE TRAINING COMMISSION—EDUCATION AND TRAINING STANDARDS BOARDS

Sections

- 43.101.070 Compensation—Reimbursement of travel expenses. (Effective July 1, 1985.)
43.101.210 Repealed. (Effective July 1, 1985.)

43.101.070 Compensation—Reimbursement of travel expenses. (Effective July 1, 1985.) 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.]

[1984 RCW Supp—page 434]

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.

43.101.210 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.105

DATA PROCESSING AND COMMUNICATIONS SYSTEMS

Sections

- 43.105.032 Data processing authority—Members—Compensation and travel expenses—Chairman—Executive director. (Effective July 1, 1985.)

43.105.032 Data processing authority—Members—Compensation and travel expenses—Chairman—Executive director. (Effective July 1, 1985.) There is hereby created the Washington state data processing authority consisting of eleven members appointed by the governor, and serving at his pleasure. The governor shall make such appointments within thirty days after April 25, 1973.

Members of the authority shall be compensated for service on the authority 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.

The authority shall elect a chairman from among its members and shall appoint an executive director within sixty days after April 25, 1973, subject to confirmation by a majority vote of the senate. [1984 c 287 § 86; 1975-'76 2nd ex.s. c 34 § 128; 1973 1st ex.s. c 219 § 5.]

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.

Data processing advisory committee abolished, transfer of personnel, etc.: "The data processing advisory committee created by section 1, chapter 212, Laws of 1969 ex. sess. is hereby abolished. The staff of such committee and the data processing coordinator and his staff from the office of program planning and fiscal management shall be transferred to the authority, along with such records, files, data, materials, equipment, and supplies as they may possess, within ninety days of the effective date of this 1973 amendatory act." [1973 1st ex.s. c 219 § 4.]

Chapter 43.121

COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

Sections

- 43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.
43.121.030 Compensation and travel expenses of members. (Effective July 1, 1985.)
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.
43.121.900 Repealed.

Reviser's note—Sunset Act application: The Washington council for the prevention of child abuse and neglect is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.319. RCW 43.121.010 through 43.121.910 are scheduled for future repeal under RCW 43.131.320.

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. As used in this chapter, "council" means the Washington council for the prevention of child abuse and neglect.

(2) The council shall be composed of the chairperson and ten other members as follows:

(a) The chairperson and four 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. A minimum of two of the designees shall reside east of the Cascade mountain range. Members appointed by the governor shall serve for two-year terms, except that the chairperson and two other members designated by the governor shall initially serve for three years. 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. [1984 c 261 § 1; 1982 c 4 § 2.]

Sunset Act application: See note following chapter digest.

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. (Effective July 1, 1985.) 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.]

Sunset Act application: See note following chapter digest.

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

43.121.090 Reports to governor and legislature. The council shall report annually 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. [1984 c 261 § 2; 1982 c 4 § 9.]

Sunset Act application: See note following chapter digest.

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 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. 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. [1984 c 261 § 3; 1982 c 4 § 10.]

Sunset Act application: See note following chapter digest.

Severability—1984 c 261: See note following RCW 43.121.020.

43.121.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.126 GEOGRAPHIC NAMES

Sections

43.126.075 Compensation and travel expenses of members. (Effective July 1, 1985.)

43.126.075 Compensation and travel expenses of members. (Effective July 1, 1985.) 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.

Chapter 43.131 WASHINGTON SUNSET ACT OF 1977

Sections

43.131.189 Department of community development—Termination.
43.131.190 Department of community development—Repeal.
43.131.221 State advisory committee—Termination.
43.131.222 State advisory committee—Repeal.
43.131.249 Board of pharmacy—Termination.
43.131.250 Board of pharmacy—Repeal.
43.131.251 Repealed.
43.131.252 Repealed.
43.131.253 Hospital commission—Termination.
43.131.254 Hospital commission—Repeal.

- 43.131.315 Honorary commercial attache program—Termination.
- 43.131.316 Honorary commercial attache program—Repeal.
- 43.131.317 Office of international investment—Termination.
- 43.131.318 Office of international investment—Repeal.
- 43.131.319 Washington council for the prevention of child abuse and neglect—Termination.
- 43.131.320 Washington council for the prevention of child abuse and neglect—Repeal.
- 43.131.321 Athletic health care and training council—Termination.
- 43.131.322 Athletic health care and training council—Repeal.
- 43.131.323 Board of psychologists examiners—Termination.

43.131.189 Department of community development—Termination. The department of community development and its powers and duties shall be terminated on June 30, 1989, as provided in RCW 43.131.190. [1984 c 125 § 19; 1979 c 99 § 21.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

43.131.190 Department of community development—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 74, Laws of 1967, section 2, chapter 125, Laws of 1984 and RCW 43.63A.020;
- (2) Section 3, chapter 74, Laws of 1967, section 1, chapter 125, Laws of 1984 and RCW 43.63A.030;
- (3) Section 4, chapter 74, Laws of 1967, section 10, chapter 40, Laws of 1975, section 3, chapter 125, Laws of 1984 and RCW 43.63A.040;
- (4) Section 5, chapter 74, Laws of 1967 and RCW 43.63A.050;
- (5) Section 6, chapter 74, Laws of 1967, section 4, chapter 125, Laws of 1984 and RCW 43.63A.060;
- (6) Section 5, chapter 125, Laws of 1984 and RCW 43.63A.065;
- (7) Section 9, chapter 74, Laws of 1967 and RCW 43.63A.090;
- (8) Section 10, chapter 74, Laws of 1967, section 9, chapter 125, Laws of 1984 and RCW 43.63A.100;
- (9) Section 10, chapter 125, Laws of 1984 and RCW 43.63A.105;
- (10) Section 13, chapter 74, Laws of 1967 and RCW 43.63A.130;
- (11) Section 14, chapter 74, Laws of 1967 and RCW 43.63A.140;
- (12) Section 2, chapter 269, Laws of 1984, section 11, chapter 125, Laws of 1984 and RCW 43.63A.190; and
- (13) Section 16, chapter 74, Laws of 1967 and RCW 43.63A.900. [1984 c 125 § 20; 1979 c 99 § 63.]

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

43.131.221 State advisory committee—Termination. The state advisory committee to the department of social and health services and its powers and duties shall be terminated on June 30, 1989, as provided in RCW 43.131.222. [1984 c 259 § 4; 1979 c 99 § 37.]

43.131.222 State advisory committee—Repeal. The following acts or parts of acts, as now existing or

hereafter amended, are each repealed, effective June 30, 1990:

(1) Section 13, chapter 189, Laws of 1971 ex. sess. and RCW 43.20A.370;

(2) Section 14, chapter 189, Laws of 1971 ex. sess. and RCW 43.20A.375; and

(3) Section 15, chapter 189, Laws of 1971 ex. sess., section 99, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.20A.380. [1984 c 259 § 5; 1979 c 99 § 79.]

43.131.249 Board of pharmacy—Termination. The board of pharmacy and its powers and duties shall be terminated on June 30, 1990, as provided in RCW 43.131.250. [1984 c 153 § 15; 1982 c 223 § 3.]

43.131.250 Board of pharmacy—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1991:

(1) Section 1, chapter 98, Laws of 1935, section 16, chapter 38, Laws of 1963, section 1, chapter 18, Laws of 1973 1st ex. sess., section 17, chapter 338, Laws of 1981, section 1, chapter 153, Laws of 1984 and RCW 18.64.001;

(2) Section 2, chapter 98, Laws of 1935, section 17, chapter 38, Laws of 1963, section 40, chapter 34, Laws of 1975-'76 2nd ex. sess., section 1, chapter 90, Laws of 1979 and RCW 18.64.003;

(3) Section 3, chapter 98, Laws of 1935, section 18, chapter 38, Laws of 1963, section 2, chapter 18, Laws of 1973 1st ex. sess., section 2, chapter 90, Laws of 1979, section 21, chapter 67, Laws of 1981, section 2, chapter 153, Laws of 1984 and RCW 18.64.005;

(4) Section 19, chapter 38, Laws of 1963, section 3, chapter 90, Laws of 1979 and RCW 18.64.007; and

(5) Section 1, chapter 82, Laws of 1969 ex. sess., section 4, chapter 90, Laws of 1979 and RCW 18.64.009. [1984 c 153 § 16; 1982 c 223 § 7.]

43.131.251 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.131.252 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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.]

Severability—1984 c 288: See note following RCW 70.39.010.

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 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 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 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 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. 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 70.39.900;

(22) Section 23, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.910;

(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; and

(25) Section 24, chapter 288, Laws of 1984 and RCW 70.39.125. [1984 c 288 § 26; 1982 c 223 § 10.]

Severability—1984 c 288: See note following RCW 70.39.010.

43.131.315 Honorary commercial attache program—Termination. The honorary commercial attache program shall be reviewed under the process provided in chapter 43.131 RCW before December 1, 1985. Unless extended by law, the program shall be terminated on June 30, 1986. [1984 c 175 § 12.]

Severability—1984 c 175: See note following RCW 43.31.373.

43.131.316 Honorary commercial attache program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1987:

(1) Section 1, chapter 175, Laws of 1984 and RCW 43.31.373;

(2) Section 2, chapter 175, Laws of 1984 and RCW 43.31.375;

(3) Section 3, chapter 175, Laws of 1984 and RCW 43.31.377;

(4) Section 4, chapter 175, Laws of 1984 and RCW 43.31.379;

(5) Section 5, chapter 175, Laws of 1984 and RCW 43.31.381;

(6) Section 6, chapter 175, Laws of 1984 and RCW 43.31.383;

(7) Section 7, chapter 175, Laws of 1984 and RCW 43.31.385; and

(8) Section 8, chapter 175, Laws of 1984 and RCW 43.31.387. [1984 c 175 § 13.]

Severability—1984 c 175: See note following RCW 43.31.373.

43.131.317 Office of international investment—Termination. The office of international investment shall be reviewed under the process provided in chapter 43.131 RCW before December 1, 1985. Unless extended by law, the office and its powers and duties shall be terminated on June 30, 1986. [1984 c 176 § 9.]

Severability—1984 c 176: See RCW 43.31B.900.

43.131.318 Office of international investment—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1987:

(1) Section 1, chapter 176, Laws of 1984 and RCW 43.31B.010;

(2) Section 2, chapter 176, Laws of 1984 and RCW 43.31B.020;

(3) Section 3, chapter 176, Laws of 1984 and RCW 43.31B.030;

(4) Section 4, chapter 176, Laws of 1984 and RCW 43.31B.040; and

(5) Section 5, chapter 176, Laws of 1984 and RCW 43.31B.050. [1984 c 176 § 10.]

Severability—1984 c 176: See RCW 43.31B.900.

43.131.319 Washington council for the prevention of child abuse and neglect—Termination. The Washington council for the prevention of child abuse

and neglect and its powers and duties shall be terminated on June 30, 1988, as provided in RCW 43.131.320. [1984 c 261 § 5.]

Severability—1984 c 261: See note following RCW 43.121.020.

43.131.320 Washington council for the prevention of child abuse and neglect—Repeal. The following acts or parts of acts as now existing or hereafter amended, are each repealed effective June 30, 1989:

(1) Section 1, chapter 4, Laws of 1982 and RCW 43.121.010;

(2) Section 2, chapter 4, Laws of 1982, section 1, chapter 261, Laws of 1984 and RCW 43.121.020;

(3) Section 3, chapter 4, Laws of 1982 and RCW 43.121.030;

(4) Section 4, chapter 4, Laws of 1982 and RCW 43.121.040;

(5) Section 5, chapter 4, Laws of 1982 and RCW 43.121.050;

(6) Section 6, chapter 4, Laws of 1982 and RCW 43.121.060;

(7) Section 7, chapter 4, Laws of 1982 and RCW 43.121.070;

(8) Section 8, chapter 4, Laws of 1982 and RCW 43.121.080;

(9) Section 9, chapter 4, Laws of 1982, section 2, chapter 261, Laws of 1984 and RCW 43.121.090;

(10) Section 10, chapter 4, Laws of 1982, section 3, chapter 261, Laws of 1984 and RCW 43.121.100; and

(11) Section 15, chapter 4, Laws of 1982 and RCW 43.121.910. [1984 c 261 § 6.]

Severability—1984 c 261: See note following RCW 43.121.020.

43.131.321 Athletic health care and training council—Termination. The athletic health care and training council and its powers and duties shall be terminated on June 30, 1990. [1984 c 286 § 11.]

Legislative findings—**Severability**—1984 c 286: See notes following RCW 43.230.010.

43.131.322 Athletic health care and training council—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1991:

(1) Section 2, chapter 286, Laws of 1984 and RCW 43.230.010;

(2) Section 3, chapter 286, Laws of 1984 and RCW 43.230.020;

(3) Section 4, chapter 286, Laws of 1984 and RCW 43.230.030;

(4) Section 5, chapter 286, Laws of 1984 and RCW 43.230.040;

(5) Section 6, chapter 286, Laws of 1984 and RCW 43.230.050;

(6) *Section 7 of this act and RCW 43.____;

(7) *Section 8 of this act and RCW 43.____; and

(8) *Section 9 of this act and RCW 28A.04.____. [1984 c 286 § 12.]

***Reviser's note:** "Sections 7, 8, and 9 of this act" were vetoed by the governor.

Legislative findings—**Severability**—1984 c 286: See notes following RCW 43.230.010.

43.131.323 Board of psychologists examiners—Termination. The powers and duties of the board of psychologists examiners shall be terminated on June 30, 1986. [1984 c 279 § 94.]

Reviser's note: The board of psychologists examiners was redesignated the examining board of psychology by RCW 18.83.010 [1984 c 279 § 75].

Chapter 43.132

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.

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.]

Severability—**Headings**—**Effective date**—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Chapter 43.160
ECONOMIC DEVELOPMENT—PUBLIC
FACILITIES LOANS AND GRANTS

Sections

43.160.010	Legislative declaration.
43.160.020	Definitions.
43.160.030	Community economic revitalization board—Members—Terms—Chairman, vice chairman—Staff support—Compensation and travel expenses—Vacancies—Removal. (Effective July 1, 1985.)
43.160.075	Repealed.
43.160.080	Public facilities construction loan revolving fund.
43.160.100	Status of board.
43.160.110	Powers.
43.160.120	Commingling of funds prohibited.
43.160.130	Personal liability.
43.160.140	Accounts.
43.160.150	Faith and credit not pledged.
43.160.160	Security.
43.160.170	Special reserve account.
43.160.902	Captions not part of law—1984 c 257.

43.160.010 Legislative declaration. 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 for the general welfare of the inhabitants of the state. Reducing unemployment as soon as possible is important for the economic welfare of the state. Economic development should be fostered through 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: (1) 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; (2) 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; (3) encouraging wider access to financial resources for both large and small industrial development projects; (4) encouraging new economic development or expansions to maximize employment; and (5) 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. [1984 c 257 § 1; 1982 1st ex.s. c 40 § 1.]

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 commerce and economic development or its successor with respect to the powers granted by this chapter.

(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" means any port district, county, city, or town.

(8) "Planning and community affairs agency" means that agency or any successor agency.

(9) "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.

(10) "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.

(11) "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. [1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

43.160.030 Community economic revitalization board—Members—Terms—Chairman, vice chairman—Staff support—Compensation and travel expenses—Vacancies—Removal. (Effective July 1, 1985.) (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of nine persons appointed by the governor and the director of commerce and economic development, the *director of planning and community affairs, the director of revenue, the commissioner of employment security, and the chairmen of the committee on commerce and economic development of the house of representatives and the committee on commerce

and labor of the senate, or the equivalent standing committees, for a total of seventeen members. The appointive members shall be as follows: A recognized private or public sector economist selected from the governor's council of economic advisors; 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 chairman. Thereafter each succeeding term shall be for three years. The representative from the governor's council of economic advisors shall serve as chairman of the board. The director of the department of commerce and economic development shall serve as vice chairman.

(3) Staff support shall be provided by the department of commerce and economic development.

(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 34.04 RCW. [1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

*Reviser's note: "Director of planning and community affairs" means "director of community development." See RCW 43.63A.045.

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

43.160.075 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

43.160.080 Public facilities construction loan revolving fund. There shall be a fund known as the public facilities construction loan revolving fund, 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 under RCW 43.160.110 through 43.160.170, 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 fund 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. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the

public facilities construction loan revolving 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.

Moneys in this fund not needed to meet the current expenses and obligations of the board shall be invested in the manner authorized for moneys in revolving funds. Any interest earned shall be deposited in this fund and shall be used for the purposes specified in this chapter. The state treasurer shall render reports to the board advising of the status of any funds invested, the market value of the assets as of the date the statement is rendered, and the income received from the investments during the period covered by the report. [1984 c 257 § 12; 1983 1st ex.s. c 60 § 6; 1982 1st ex.s. c 40 § 8.]

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.]

43.160.110 Powers. In addition to those powers and duties granted elsewhere in this chapter, the board may:

(1) Exercise all the powers of a public corporation under chapter 39.84 RCW.

(2) 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.

(3) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.

(4) 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.

(5) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(6) Sell, purchase, or insure loans to finance the costs of industrial development facilities.

(7) Service, contract, and pay for the servicing of loans for industrial development facilities.

(8) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.

(9) 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.

(10) 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. [1984 c 257 § 4.]

Authority of community economic revitalization board under chapter 39.84 RCW: RCW 39.84.200.

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 43.160.100 through 43.160.170. [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.]

43.160.902 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 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY PROGRAM

Sections

43.170.900 Repealed.

43.170.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 43.175

SMALL BUSINESS IMPROVEMENT COUNCIL

Sections

43.175.010 Small business improvement council—Established—Membership—Travel expenses—Staff support and administrative assistance.
 43.175.020 Duties.
 43.175.900 Expiration of chapter.
 43.175.901 Severability—1984 c 282.

43.175.010 Small business improvement council—Established—Membership—Travel expenses—Staff support and administrative assistance. (1) There is established the small business improvement council to consist of at least fifteen but not more than thirty members to be appointed by the governor. In making the appointments, the governor shall consider the recommendations of business organizations and persons operating small businesses. At least fifteen percent of the members of the council shall be women or members of minority groups, and at least one member of the council shall represent agribusiness concerns. Members

of the 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 small business improvement council shall not be compensated or be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) The department of commerce and economic development or its successor agency shall provide staff support and administrative assistance to the council. [1984 c 282 § 7.]

43.175.020 Duties. The small business improvement council shall seek to identify regulatory, administrative, and legislative proposals that will improve the entrepreneurial environment for small businesses. In consultation with the department of commerce and economic development and the appropriate standing committees of the senate and house of representatives, the small business improvement council shall submit its proposals to the governor and the legislature prior to the convening of each regular session of the legislature. The proposals shall include the recommendations of the council's subcommittees established under *section 9 of this act. [1984 c 282 § 8.]

*Reviser's note: "Section 9 of this act" was vetoed by the governor.

43.175.900 Expiration of chapter. This chapter shall expire June 30, 1988. [1984 c 282 § 13.]

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

43.180.040 Commission created. (Effective July 1, 1985.)
43.180.200 Internal revenue code.

43.180.040 Commission created. (Effective July 1, 1985.) (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 the planning and community affairs agency, 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 *planning and community affairs agency 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 34.04 RCW. [1984 c 287 § 90; 1983 c 161 § 4.]

*Reviser's note: "Planning and community affairs agency" and "director of planning and community affairs" mean "department of community development" and "director of community development," respectively. See RCW 43.63A.045.

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

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, the state ceiling for each of the calendar years 1983 through 1986 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 *planning and community affairs agency, or its successor, 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 *planning and community affairs agency shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. However, for calendar year 1983, the distribution shall be made on or before September 1, 1983. After 1983 each issuing authority other than the commission shall confirm its allocation distribution by providing to the *planning and community affairs agency 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.

(d) For calendar year 1983, the allocations to issuing authorities, other than the commission, shall include bonds issued by the authorities during the first six months of 1983. However, the *planning and community

affairs agency, or its successor, shall adopt rules to ensure that the total amount of bonds issued by the authorities during the six-month period does not exceed their twenty percent share and that the total amount of bonds issued by any single issuing authority during such period does not exceed twenty-five million dollars. [1984 c 28 § 1; 1983 c 161 § 20.]

*Reviser's note: "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

Chapter 43.200

RADIOACTIVE WASTES

Sections

43.200.015	Definitions.
43.200.020	Administration of chapter—Receipt of federal financial assistance—Reports on radioactive waste program.
43.200.025	Powers and duties of board.
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43.200.150	Administrative and technical support.
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43.200.903	Severability—1984 c 161.

43.200.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Board" means the nuclear waste board established in RCW 43.200.040.

(2) "Federal department of energy" means the federal department of energy or any successor agency assigned responsibility for the long-term disposal of high-level radioactive waste.

(3) "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).

(4) "Department" means the department of ecology. [1984 c 161 § 1.]

43.200.020 Administration of chapter—Receipt of federal financial assistance—Reports on radioactive waste program. The nuclear waste board shall carry out the authority and responsibility set forth in this chapter. 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 board and 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.

The board shall submit a written report at least semi-annually to the governor and to each member of the legislature on the radioactive waste program, its progress in carrying out its responsibilities, and any recommendations for legislative or administrative action that will improve the state's management and control activity in maximizing public health and safety. [1984 c 161 § 2; 1983 1st ex.s. c 19 § 2.]

43.200.025 Powers and duties of board. (1) The board shall be responsible for identifying and reviewing state agency policies relating to the management of radioactive wastes; analyzing recommendations of the advisory council to determine how state agencies may be responsive to the needs of the board in carrying out its duties under this chapter; determining ways in which coordination among state agencies can be improved; carrying out such review activities that will enable the state to effectively evaluate federal actions; reviewing the activities of advisory and technical committees; studying the need for additional advisory and technical committees; and participating in the consultation and concurrence process provided for in the federal waste management act of 1982 and assisting the department to participate in the low-level waste policy act of 1980 and to monitor and comment on decisions of the northwest interstate compact committee on low-level radioactive waste management.

(2) The board shall disseminate or arrange with the federal department of energy or other federal agency to disseminate information received pursuant to its activities under this chapter to the legislature, appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the radioactive waste advisory council, and persons who have requested in writing to receive this information.

(3) The board shall serve as a spokesman on behalf of the citizens of this state before the federal department of energy and other federal agencies on matters related to the disposal of high-level radioactive waste.

(4) The board shall promote and coordinate through the radioactive waste advisory council educational programs which provide information on the nature of high-level radioactive waste, the disposal of these wastes, the activities of the board, the activities of the federal department of energy and other federal agencies related to the disposal of high-level radioactive waste, and the opportunities of the public to participate in procedures and decisions related to the disposal of high-level radioactive waste.

(5) The board shall monitor activity in congress and the federal government related to the disposal of high-level radioactive waste. The board may advise the congressional delegation from this state of action which is needed to protect the interests of the state.

(6) The board may request and delegate to the department the undertaking of any of the activities assigned to the board by the provisions of this chapter. The board may delegate administrative matters to the department to assist the board in carrying out its activities under this chapter. [1984 c 161 § 3.]

43.200.030 Cooperation required. All departments, agencies, and officers of this state and its subdivisions shall cooperate with the board in the furtherance of any of its activities pursuant to this chapter. [1984 c 161 § 4; 1983 1st ex.s. c 19 § 3.]

43.200.040 Nuclear waste board created—Membership—Travel expenses. (Effective until July 1, 1985.) (1) There is hereby created a nuclear waste board. The board shall consist of the following members: The chairman of the advisory council who shall also serve as chairman of the review board, the director of ecology or the director's designee, the director of the energy office or the director's designee, the commissioner of public lands or the commissioner's designee, the secretary of social and health services or the secretary's designee, the chairman of the energy facility site evaluation council or the chairman's designee, the director of the Washington state water research center or the director's designee, four members of the state senate, appointed by the president of the senate, and four members of the house of representatives, appointed by the speaker, who shall be selected from each of the caucuses in each house, but no more than two members of each house shall be of the same political party. Legislative members shall be ex officio nonvoting members of the board and shall serve while members of the legislature, at the pleasure of the appointing officer.

(2) Nonlegislative 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. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120. The legislature shall seek reimbursement from available sources, including the federal government, for legislative expenditures incurred pursuant to the provisions of this chapter. [1984 c 161 § 5; 1983 1st ex.s. c 19 § 4.]

43.200.040 Nuclear waste board created—Membership—Compensation and travel expenses. (Effective July 1, 1985.) (1) There is hereby created a nuclear waste board. The board shall consist of the following members: The chairman of the advisory council who shall also serve as chairman of the review board, the director of ecology or the director's designee, the director of the energy office or the director's designee, the commissioner of public lands or the commissioner's designee,

the secretary of social and health services or the secretary's designee, the chairman of the energy facility site evaluation council or the chairman's designee, the director of the Washington state water research center or the director's designee, four members of the state senate, appointed by the president of the senate, and four members of the house of representatives, appointed by the speaker, who shall be selected from each of the caucuses in each house, but no more than two members of each house shall be of the same political party. Legislative members shall be ex officio nonvoting members of the board and shall serve while members of the legislature, at the pleasure of the appointing officer.

(2) Nonlegislative members shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120. The legislature shall seek reimbursement from available sources, including the federal government, for legislative expenditures incurred pursuant to the provisions of this chapter. [1984 c 287 § 91; 1984 c 161 § 5; 1983 1st ex.s. c 19 § 4.]

Reviser's note: This section was amended by 1984 c 287 § 91, effective July 1, 1985, and by 1984 c 161 § 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).

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

43.200.050 Advisory council established—Membership—Duties—Chairman—Terms—Vacancies—Travel expenses. (1) An advisory council is hereby established of not less than fifteen members appointed by the governor to provide advice, counsel, and recommendations to the board on all aspects of the radioactive waste management program. The council shall particularly advise the board on maximizing opportunities for public involvement in the program, soliciting public input, and assisting in the need for wide understanding of the issues involved in nuclear waste management. The governor shall appoint the chairman of the advisory council who shall also serve as chairman of the nuclear waste board. Members of the council shall be selected from all areas of the state and shall include a broad range of citizens, representatives of local governments, and representatives of such other interests as the governor determines will best further the purposes of this chapter. A representative of an affected Indian tribe may be an ex officio nonvoting member of the council. Terms of council members shall not exceed two years and they shall continue to serve until their successors are appointed. Vacancies shall be filled in the same manner as original appointments. Members may be reappointed. The governor may appoint a replacement for any council member who is temporarily unable to fulfill the responsibilities required of a council member. The replacement shall serve at the pleasure of the governor. 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. [1984 c 161 § 6; 1983 1st ex.s. c 19 § 5.]

43.200.060 Additional advisory and technical committees. The board may establish such additional advisory and technical committees as it deems necessary. Members of any advisory or technical committee established under this section may receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1984 c 161 § 7; 1983 1st ex.s. c 19 § 6.]

43.200.070 Rule-making authority. The board and/or the department of ecology are authorized to adopt such rules as are necessary to carry out responsibilities under this chapter. The department of social and health services is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW. [1984 c 161 § 8; 1983 1st ex.s. c 19 § 7.]

43.200.100 Negotiation of agreements with federal department of energy—Hearings—Limitations. (1) The board shall be the lead agency in negotiations and shall negotiate agreements and modifications to agreements with the federal department of energy. The legislature may appoint one or more representatives to participate in the negotiations. Additionally the board shall consult with the radioactive waste advisory council, the department of ecology, and the legislature during the negotiation of any agreement or modification to an agreement with the federal department of energy.

(2) The board shall conduct more than one public hearing on any proposed agreement or modification to an agreement negotiated under subsection (1) of this section. The board shall provide fourteen days notice of the date and location of hearings conducted under this subsection. The board shall prepare a written summary of testimony presented at hearings conducted under this subsection and shall consider the need for modifications to the negotiated agreement as a result of the hearings.

(3) No agreement or modification to an agreement negotiated under subsection (1) of this section may take effect unless it is recommended to be approved by a majority of the members of the full board.

(4) No agreement or modification to an agreement negotiated under subsection (1) of this section may take effect unless it is reviewed under RCW 43.200.110.

(5) In performing their responsibilities under this section, the board and its membership shall use good faith efforts and their best judgments to: (a) Develop an ongoing program to inform the public of its actions and to address concerns of the public as they arise; (b) insure, to the maximum extent feasible, that:

(i) No right or opportunity for participation to which the state is entitled under the Nuclear Waste Policy Act of 1982 (42 U.S.C. Sec. 10101 et seq.) be waived by written agreement;

(ii) The state be afforded adequate remedies in the event of breach of the written agreement;

(iii) Wherever possible, the state obtain through agreement additional rights and privileges which are not inconsistent with the Nuclear Waste Policy Act;

(iv) The written agreement incorporate the funding under provisions of section 116 of the Nuclear Waste Policy Act as a federal contractual obligation with the state of Washington;

(v) The written agreement contains provisions specifying the level of funding that the state will receive from the United States department of energy under the Nuclear Waste Policy Act with respect to but not limited to public health and safety, environmental, socioeconomic, and related impacts which are anticipated at the time of agreements; allows for cost escalation and scope of project changes; and further contains provisions specifying how the amount of funding will be determined with respect to later environmental, socioeconomic and related impacts;

(vi) The consultation and cooperation agreement provided for in the Nuclear Waste Policy Act be executed by the earliest possible date reasonably attainable in order that the state be adequately protected by such agreement at all points in the federal-state relationship; and

(vii) The Washington state legislature be fully apprised of the status of the negotiation of the written agreement. [1984 c 161 § 9.]

43.200.110 Approval or disapproval of agreements and modifications—Execution of agreement or modification. (1) The board shall submit any written agreement or modification of an agreement recommended to be approved by the board and approved by the federal department of energy to the governor, the speaker of the house of representatives, the president of the senate, and to the chairs of the energy and utilities committees of the house of representatives and the senate.

(2) The energy and utilities committees of the house of representatives and the senate shall review the proposed written agreement or modification to an agreement on behalf of the legislature within thirty days after receipt of the board recommendation under subsection (1) of this section. The committees may recommend approval or disapproval of the written agreement or modification of the agreement via a concurrent resolution if the legislature is in session to the speaker of the house of representatives and the president of the senate for review by the legislature. If the legislature is not in session, the committees may recommend approval or disapproval of the written agreement or modification of the agreement by a written statement from either committee to the speaker of the house and/or the president of the senate.

(3) The board may execute an agreement or modification recommended under subsection (1) of this section at any time after sixty days of receipt of the agreement or modification as provided in subsection (2) of this section unless, prior to its execution, the board receives a disapproval thereto embodied in either a concurrent resolution if the legislature is in session or a written statement from either committee if the legislature is not in session. [1984 c 161 § 10.]

43.200.120 Negotiation of technical revisions to agreements—Limitations. (1) The board may negotiate what in the board's judgment are technical revisions to any agreement approved under RCW 43.200.110.

(2) No technical revision to an agreement negotiated under subsection (1) of this section may take effect unless it is recommended to be approved by a majority of the members of the full board.

(3) No technical revision to an agreement negotiated under subsection (1) of this section may take effect unless it is considered approved under RCW 43.200.130. [1984 c 161 § 11.]

43.200.130 Objections to technical revisions—Effect. (1) The board shall submit any technical revision to a written agreement negotiated under RCW 43.200.120(1), approved by the board and approved by the federal department of energy or other federal agency, to the presiding officer of each house of the legislature and to the governor.

(2) Each presiding officer shall refer the technical revision to the committee on energy and utilities of the appropriate house within seven working days after the day on which the revision is received. Each presiding officer shall cause a statement to appear in the journal of the appropriate house that a technical revision to an agreement approved under RCW 43.200.110 is submitted for review.

(3) Either committee on energy and utilities may object to the technical revision by taking action in executive session within thirty days after the revision is referred to the committee. If a committee objects to the revision, it shall submit a written notice of the objection to the presiding officer of that house for review by the legislature. The presiding officer shall cause the written notice of the objection to appear in the journal of the appropriate house. If the legislature is not in session, the committees shall transmit a written notice of the objection to the presiding officer of each house.

(4) The governor may object to the technical revision by taking action within thirty days after the revision is received. If the governor objects to the revision, the governor shall submit a written notice of the objection to the presiding officer of each house of the legislature and each presiding officer shall cause the written notice of the objection to appear in the journal of the respective house.

(5) If neither committee nor the governor objects to a technical revision within the thirty-day review period, the revision is considered approved and shall take effect. [1984 c 161 § 12.]

43.200.140 Repository for long-term disposal of high-level radioactive waste—Review of selected site by board—Recommendation—Approval or disapproval by legislature—Notification of action. (1) If the federal department of energy recommends a site in the state to the president of the United States for the development of a repository for the long-term disposal of high-level radioactive waste, the board shall review the selected site. The review shall include a full review of the

adequacy of the selected site. The board shall solicit written comments on the selected site from the radioactive waste advisory council. The board shall use recognized experts in conducting its review. The board shall conduct more than one public hearing concerning the selected site and shall make available to the public arguments and evidence for and against the selected site. The board shall provide at least fourteen days notice of the date and location of the public hearings. The board shall solicit comments from appropriate state agencies, local units of government, regional planning commissions, American Indian tribal governing bodies, the general public, and interested citizen groups on the adequacy of the selected site. The board shall make these comments available to the public.

(2) After completing this review but not later than fifteen days after the date on which the president recommends a site for repository development to the congress, the board shall submit a recommendation to the speaker of the house of representatives, the president of the senate, the governor, and the committees on energy and utilities of the house of representatives and senate on whether the state should accept the site selected by the federal department of energy. The recommendation to the speaker of the house of representatives and the president of the senate shall be accompanied by a request for the introduction of a concurrent resolution to approve the site selected or by a request for the introduction of a concurrent resolution to disapprove the site.

(3) Pursuant to Article II, section 12 of the state Constitution, the secretary of the senate and the chief clerk of the house of representatives shall poll the members of the legislature if the president recommends a site in the state for the development of a repository for disposal of high-level radioactive waste to determine if the legislature desires a special session to address the repository site selection issue.

(4) The energy and utilities committees of the house of representatives and the senate shall review the board's recommendation within thirty days after receipt of the board's recommendation under subsection (2) of this section. The committees may recommend approval or disapproval of the recommendation or modification of the recommendation via a concurrent resolution if the legislature is in session to the speaker of the house of representatives and the president of the senate for review and action by the full legislature. If the legislature is not in session and has not convened a special session pursuant to subsection (3) of this section, the committees may recommend approval or disapproval of the written agreement or modification of the agreement by a written statement from either committee submitted to the speaker of the house and/or the president of the senate.

(5) After the governor or the legislature take action under subsection (4) of this section, the chief clerk of the house of origin or the governor shall notify the board of the action taken and the board shall send a report to the president of the United States, the members of the United States senate, the members of the United States house of representatives, the federal department of energy, and other appropriate federal agencies. The report

shall contain a summary of the review undertaken by the board in accordance with subsection (1) of this section, the recommendation made by the board under subsection (2) of this section, and the action of the legislature under subsection (4) of this section. [1984 c 161 § 13.]

43.200.150 Administrative and technical support. The department shall provide administrative and technical staff support as requested by the board. As directed by the board, the department shall be responsible for obtaining and coordinating technical expertise necessary for board participation in nuclear waste programs and shall be responsible for ongoing technical coordination and administration of program activities. Other state agencies shall assist the board in fulfilling its duties to the fullest extent possible. The board and/or the department may contract with other state agencies to obtain expertise or input uniquely available from that agency. [1984 c 161 § 14.]

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.]

43.200.903 Severability—1984 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. [1984 c 161 § 17.]

Chapter 43.230

ATHLETIC HEALTH CARE AND TRAINING COUNCIL

Sections

43.230.010	Athletic health care and training council created— Membership—Terms—Chairperson.
43.230.020	Travel expenses.
43.230.030	Meetings.
43.230.040	Staff.
43.230.050	Study.

Reviser's note—Sunset Act application: The athletic health care and training council is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.321. RCW 43.230.010 through 43.230.050 are scheduled for future repeal under RCW 43.131.322.

43.230.010 Athletic health care and training council created—Membership—Terms—Chairperson. (1) The athletic health care and training council is created. The council shall consist of fourteen members selected by the governor to serve four-year staggered terms. The terms of the initial members shall be as follows: Two members will serve a one-year term, four members will serve two-year terms, four members will serve three-year terms, and four members will serve four-year terms. The governor shall select the members to represent diverse racial and ethnic backgrounds, the different

geographical areas of the state, and both men and women as follows: Two members shall be physicians licensed under chapter 18.57 or 18.71 RCW, two members shall be physical therapists licensed under chapter 18.74 RCW, two members shall be athletic trainers, two members shall be principals of public junior high schools in this state with one from a large district and one from a small district, two members shall be principals of public high schools in this state with one from a large district and one from a small district, two members shall be school district superintendents with one from a large district and one from a small district, one member shall be a representative of a private school which conducts junior and senior high school athletic programs, and one member shall be employed by or be an officer of an organization to which a school district has delegated control, supervision, and regulation of an activity under RCW 28A.58.125.

(2) The members of the council shall select the chairperson from among their members. [1984 c 286 § 2.]

Sunset Act application: See note following chapter digest.

Legislative findings—1984 c 286: "The legislature finds that the provisions made for safety, emergency care, and athletic health care and training for persons of junior high or high school age are dramatically inferior to those made for athletes at either the postsecondary or professional levels. The legislature further finds that when care is provided at the junior high and high school level, participants in different athletic activities are not provided with equal care.

The legislature finds that the health and safety of the participants in athletics who are between twelve and eighteen years of age is of great importance. The legislature further finds that standards and guidelines for the health and safety of participants in organized athletics both in the high schools and junior high schools will help protect the young people of this state." [1984 c 286 § 1.]

Severability—1984 c 286: "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 286 § 13.]

43.230.020 Travel expenses. Members of the council shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03-.050 and 43.03.060. [1984 c 286 § 3.]

Sunset Act application: See note following chapter digest.

Legislative findings—Severability—1984 c 286: See notes following RCW 43.230.010.

43.230.030 Meetings. The council shall meet at regularly scheduled meetings and may meet more frequently as necessary as determined by the chairperson. Eight members shall constitute a quorum for conducting business. [1984 c 286 § 4.]

Sunset Act application: See note following chapter digest.

Legislative findings—Severability—1984 c 286: See notes following RCW 43.230.010.

43.230.040 Staff. The council may employ staff as necessary to help the council carry out its duties. The council may contract for services when necessary for preliminary investigations of violations of this chapter or rules adopted under this chapter. [1984 c 286 § 5.]

Sunset Act application: See note following chapter digest.

Legislative findings—Severability—1984 c 286: See notes following RCW 43.230.010.

43.230.050 Study. (1) The council shall conduct a study of health and safety conditions in organized athletic programs designed for persons between the ages of twelve and eighteen either in public or private junior high schools and high schools in this state. The study shall be completed by September 1, 1984. [1984 c 286 § 6.]

Reviser's note: Subsections (2) through (5) of this section were vetoed by the governor.

Sunset Act application: See note following chapter digest.

Legislative findings—Severability—1984 c 286: See notes following RCW 43.230.010.

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.05** Washington state redistricting act.
- 44.60** Legislative ethics.

Chapter 44.05

WASHINGTON STATE REDISTRICTING ACT

Sections

- 44.05.030 Redistricting commission—Membership—Chairperson—Vacancies.
- 44.05.050 Members—Persons ineligible to serve.
- 44.05.060 Members—Political activities prohibited.
- 44.05.902 Severability—1984 c 13.

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.

44.05.030 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.]

44.05.050 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.]

44.05.902 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 44.60 LEGISLATIVE ETHICS

Sections

44.60.050 Meetings—Public hearings—Compensation and expenses. (Effective July 1, 1985.)

44.60.050 Meetings—Public hearings—Compensation and expenses. (Effective July 1, 1985.) 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.

Title 45 TOWNSHIPS

Chapters

45.12 Town meetings—Powers of towns.

Chapter 45.12

TOWN MEETINGS—POWERS OF TOWNS

Sections

45.12.100 Powers of electors at town meetings.

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.

Town taxes and charges: Chapter 45.56 RCW.

What officers to be elected at town meeting: RCW 45.12.080.

Title 46

MOTOR VEHICLES

Chapters

- 46.01 Department of licensing.
- 46.04 Definitions.
- 46.08 General provisions.
- 46.12 Certificates of ownership and registration.
- 46.16 Vehicle licenses.
- 46.20 Drivers' licenses—Identical cards.
- 46.37 Vehicle lighting and other equipment.
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- 46.44 Size, weight, load.
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- 46.61 Rules of the road.
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- 46.68 Disposition of revenue.
- 46.81 Traffic safety education courses.
- 46.82 Driver training schools.
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- 46.90 Washington Model Traffic Ordinance.

Chapter 46.01

DEPARTMENT OF LICENSING

Sections

- 46.01.260 Destruction of records by director.

46.01.260 Destruction of records by director. The director, in his discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated. [1984 c 241 § 1; 1971 ex.s. c 22 § 1; 1965 ex.s. c 170 § 45; 1961 c 12 § 46.08.120. Prior: 1955 c 76 § 1; 1951 c 241 § 1; 1937 c 188 § 77; RRS § 6312-77. Formerly RCW 46.08.120.]

Chapter 46.04

DEFINITIONS

Sections

- 46.04.355 Municipal transit vehicle.
- 46.04.480 Revoke. (Effective until January 1, 1986.)
- 46.04.480 Revoke. (Effective January 1, 1986.)

46.04.355 Municipal transit vehicle. Municipal transit vehicle includes every motor vehicle, street car, train, trolley vehicle, and any other device, which (1) is capable of being moved within, upon, above, or below a public highway, (2) is owned or operated by a city, county, county transportation authority, public transportation benefit area, or metropolitan municipal corporation within the state, and (3) is used for the purpose of carrying passengers together with incidental baggage and freight on a regular schedule. [1984 c 167 § 2; 1974 ex.s. c 76 § 4.]

46.04.480 Revoke. (Effective until January 1, 1986.) "Revoke," in all its forms, means the invalidation for a period of one calendar year and thereafter until reissue: *Provided*, That under the provisions of RCW 46.20.285, 46.20.311, or 46.61.515 and chapter 46.65 RCW the invalidation may last for a period other than one calendar year. [1983 c 165 § 13; 1979 c 62 § 7; 1961 c 12 § 46.04.480. Prior: 1959 c 49 § 52; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Severability—1979 c 62: See note following RCW 46.65.020.

46.04.480 Revoke. (Effective January 1, 1986.) "Revoke," in all its forms, means the invalidation for a period of one calendar year and thereafter until reissue: *Provided*, That under the provisions of RCW 46.20.285, 46.20.311, 46.61.515, or 46.20.610 and chapter 46.65 RCW the invalidation may last for a period other than

one calendar year. [1983 c 165 § 14; 1983 c 165 § 13; 1979 c 62 § 7; 1961 c 12 § 46.04.480. Prior: 1959 c 49 § 52; prior: (i) 1943 c 153 § 1, part; 1937 c 188 § 1, part; Rem. Supp. 1943 § 6312-1, part. (ii) 1937 c 189 § 1, part; RRS § 6360-1, part.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.
Severability—1979 c 62: See note following RCW 46.65.020.

Chapter 46.08
GENERAL PROVISIONS

Sections

- 46.08.172 Control of traffic on capitol grounds—Disposition of parking revenue—State capitol vehicle parking account. (Effective July 1, 1985.)
- 46.08.190 Jurisdiction of judges of district, municipal, and superior court.

46.08.172 Control of traffic on capitol grounds—Disposition of parking revenue—State capitol vehicle parking account. (Effective July 1, 1985.) There is hereby established an account within the general fund of the state treasury to be known as the "state capitol vehicle parking account". All unpledged parking rental income collected by the department of general administration from rental of parking space on the capitol grounds and the east capitol site shall be deposited in the "state capitol vehicle parking account".

The "state capitol vehicle parking account" shall be used to pay costs incurred in the operation, maintenance, regulation and enforcement of vehicle parking and parking facilities at the state capitol. [1984 c 258 § 323; 1963 c 158 § 1.]

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.

46.08.190 Jurisdiction of judges of district, municipal, and superior court. Every district and municipal court judge shall have concurrent jurisdiction with superior court judges of the state for all violations of the provisions of this title and may impose any punishment provided therefor. [1984 c 258 § 136; 1961 c 12 § 46.08.190. Prior: 1955 c 393 § 4.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Chapter 46.12
CERTIFICATES OF OWNERSHIP AND REGISTRATION

Sections

- 46.12.101 Transfer of ownership, how perfected.
- 46.12.102 Release of owner from liability, requirements for.
- 46.12.380 Disclosure of names and addresses of individual vehicle owners.

46.12.101 Transfer of ownership, how perfected. A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1) If an owner transfers his interest in a vehicle, other than by the creation of a security interest, he shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and inscribe in ink the number of miles indicated on the odometer in the respective spaces provided therefor on the certificate or as the department prescribes, and cause the certificate and assignment to be transmitted to the transferee. Within five days the owner shall notify the department of the sale or transfer giving the date thereof, the name and address of the owner and of the transferee, and such description of the vehicle as may be required in the appropriate form provided for that purpose by the department.

(2) Except as provided in RCW 46.12.120 the transferee shall within fifteen days after delivery to him of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department.

(3) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party under his security agreement.

(4) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(5) If the purchaser or transferee fails or neglects to transfer such certificate of ownership and license registration within fifteen days after date of delivery of the vehicle to him, he shall on making application for transfer be assessed a twenty-five-dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars: *Provided*, That failure or neglect to transfer within forty-five days after date of delivery of the vehicle is a misdemeanor.

(6) Upon receipt of an application for the reissue of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership and such other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer, to be deposited in the motor vehicle fund.

(7) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place. [1984 c 39 § 1; 1972 ex.s. c 99 § 1; 1969 ex.s. c 281 § 38; 1969 ex.s. c 42 § 1; 1967 c 140 § 7.]

Effective date—1967 c 140: See note following RCW 46.12.010.
Definitions: RCW 46.12.005.

46.12.102 Release of owner from liability, requirements for. An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:

- (1) When he has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;
- (2) When he has delivered to the department either the notice as provided in RCW 46.12.101(1) or appropriate documents for registration of the vehicle pursuant to the sale or transfer. [1984 c 39 § 2.]

46.12.380 Disclosure of names and addresses of individual vehicle owners. Notwithstanding the provisions of chapter 42.17 RCW, the name or address of an individual vehicle owner shall not be released by the department, county auditor or other public agency except upon written request, signed by the person requesting disclosure, stating their full legal name and address. The request for disclosure is itself a public record, subject to inspection and copying, and shall be retained by the disclosing agency for two years.

When deemed appropriate by the disclosing agency, notice that such a disclosure request has been honored may be sent to the affected vehicle owner, indicating the name and address of the person requesting disclosure.

This section shall not apply to persons who routinely request disclosure of vehicle registration information for use in the course of their business or occupation. [1984 c 241 § 2.]

**Chapter 46.16
VEHICLE LICENSES**

Sections

46.16.061	Additional fees to help defray costs of studies.
46.16.215	Repealed.
46.16.216	Renewal, payment of parking fines required—Distribution of surcharge—Change of registered owner—Statement of unpaid parking fines to registered owners.
46.16.275	Replacement plates required, when.
46.16.380	Repealed.
46.16.381	Special parking privileges for disabled persons—Penalties for unauthorized use or parking.
46.16.390	Special plate, card, or decal issued by another jurisdiction.

46.16.061 Additional fees to help defray costs of studies. In addition to all other fees prescribed by law, there shall be paid for each motor vehicle the following amounts at the time of the payment of the registration fee as provided by law:

For each truck under 12,000 lbs.	\$.25
For each truck over 12,000 lbs. and under 20,000 lbs.	\$.50
For each truck over 20,000 lbs.	\$ 1.00
For each trailer 4,000 lbs. to 12,000 lbs.	\$.25
For each trailer 12,000 lbs. to 20,000 lbs.	\$.50
For each trailer, semitrailer, or pole trailer over 20,000 lbs.	\$ 1.00
For each diesel truck	\$ 2.00
For each auto stage	\$ 1.00
For each for hire vehicle over 4,000 lbs.	\$.50
For each motor vehicle not otherwise taxed herein	\$.10

The fees shall be deposited in the motor vehicle fund, and shall be used by the legislative transportation committee and the state department of transportation to help defray the costs of special highway studies and other studies as provided for by law and for other necessary expenses of the committee. [1984 c 7 § 49; 1963 ex.s. c 3 § 40.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.16.215 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.16.216 Renewal, payment of parking fines required—Distribution of surcharge—Change of registered owner—Statement of unpaid parking fines to registered owners. (1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations include only those violations for which notice has been received from local agencies by the department one hundred fifty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred fifty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

- (a) Presents a preprinted renewal application showing no listed standing, stopping, and parking violations, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or
- (b) If listed standing, stopping, and parking violations exist, presents proof of payment and pays a ten dollar surcharge.

(2) The ten dollar surcharge shall be allocated as follows:

(a) Five dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations, at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected. [1984 c 224 § 1.]

Severability—1984 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." [1984 c 224 § 5.]

Effective date—1984 c 224: "This act shall take effect on July 1, 1984." [1984 c 224 § 6.]

46.16.275 Replacement plates required, when. On January 1, 1984, the department of licensing shall implement a system for recording the date of issuance of all vehicle license number plates.

Any person applying for an original or renewal vehicle license after January 1, 1989, shall be required to purchase new or replacement vehicle license number plates before obtaining a new certificate of title or new registration for the vehicle if the vehicle license number plates are five years old or older.

Any person applying for a renewal vehicle license after January 1, 1985, shall be required to purchase replacement vehicle license number plates if the vehicle license number plates were issued on or before January 1, 1968. The provisions of this section shall not apply to a vehicle owned and operated primarily as a collector's item pursuant to RCW 46.16.310, 46.16.311, or 46.16.315. [1984 c 62 § 1; 1983 c 72 § 1.]

46.16.380 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.16.381 Special parking privileges for disabled persons—Penalties for unauthorized use or parking. (1) The director shall grant special parking privileges to any person who meets one of the following criteria:

(a) Loss of both lower limbs;

(b) Loss of normal or full use of the lower limbs to sufficiently constitute a severe disability;

(c) Is so severely disabled, that the person cannot move without the aid of crutches or a wheelchair;

(d) Loss of both hands;

(e) Suffers from lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second; or

(f) Impairment by cardiovascular disease to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association.

(2) Persons with special parking privileges are entitled to receive from the department of licensing both a special card to be left in a vehicle in a conspicuous place and, for one motor vehicle only, a decal to be attached to the vehicle in a conspicuous place designated by the director. Instead of the decal and regular motor vehicle license plates, the disabled persons are entitled to receive a special license plate. The card, decal, and special license plate shall be designed to show distinguishing marks, letters, or numerals indicating that the vehicle is being used to transport a disabled person. Persons using vehicles displaying the special license plate, card, or decal shall be permitted to park in places otherwise reserved for physically disabled persons. The director shall also adopt rules providing for the issuance of special cards to public transportation authorities that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The special card shall be displayed in a vehicle operated when actually transporting the disabled persons. The public transportation authority is responsible for insuring that the special card is not used improperly and is responsible for all fines and penalties for improper use.

(3) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special decals or license plate shall be removed from the motor vehicle. The person shall immediately surrender the decal to the director together with a notice of the transfer of interest in the vehicle. If another vehicle is acquired by, or for the primary use of, the disabled person, a new decal shall be issued by the director. If another vehicle is acquired by the disabled person and a special plate is used, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately forwarded to the director to be reissued later upon payment of the regular registration fee.

(4) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who is permanently disabled under this section shall be issued a permanent card. A person who is temporarily disabled under this section shall be issued a temporary card which shall be renewed, when required by the director, by satisfactory proof of the right to continued use of the card.

(5) Additional fees shall not be charged for the issuance of the special card and decal, and, at the time the vehicle is originally licensed in this state, no additional fee may be charged for the issuance of the special license plate except the regular motor vehicle registration

fee and any other fees and taxes required to be paid upon initial registration of a motor vehicle.

(6) Any unauthorized use of the special card, the decal, or the special license plate is a traffic infraction.

(7) It is a traffic infraction, with a monetary penalty of not less than fifteen and not more than fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for physically disabled persons without a special license plate, card, or decal. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate, card, or decal required under this section or demonstrates that the person was entitled to the special license plate, card, or decal.

(8) It is a misdemeanor for any person to wilfully obtain a special decal, license plate, or card in a manner other than that established under this section. [1984 c 154 § 2.]

Intent—1984 c 154: "The legislature intends to extend special parking privileges to persons with disabilities that substantially impair mobility." [1984 c 154 § 1.]

Application—1984 c 154: "This act applies to special license plates, cards, or decals issued after June 7, 1984. Nothing in this act invalidates special license plates, cards, or decals issued before June 7, 1984." [1984 c 154 § 9.]

Severability—1984 c 154: "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 154 § 10.]

46.16.390 Special plate, card, or decal issued by another jurisdiction. A special license plate, card, or decal issued by another state or country that indicates an occupant of the vehicle is disabled, entitles the vehicle on or in which it is displayed and being used to transport the disabled person to lawfully park in a parking place reserved for physically disabled persons pursuant to chapter 70.92 RCW or authority implemental thereof. [1984 c 51 § 1.]

Chapter 46.20

DRIVERS' LICENSES—IDENTICARDS

Sections

46.20.285	Conviction of offenses for which mandatory revocation of license by department required. (Effective until July 1, 1985.)
46.20.285	Conviction of offenses for which mandatory revocation of license by department required. (Effective July 1, 1985.)
46.20.308	Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood. (Effective until January 1, 1986.)
46.20.308	Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood. (Effective January 1, 1986.)
46.20.311	Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective until July 1, 1985.)
46.20.311	Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective July 1, 1985.)
46.20.391	Occupational driver's license—Petition—Eligibility—Restrictions—Cancellation. (Effective until January 1, 1986.)

46.20.391	Occupational driver's license—Application—Eligibility—Restrictions—Cancellation. (Effective January 1, 1986.)
46.20.394	Occupational driver's license—Departmental issuance—Detailed restrictions—Violation. (Effective January 1, 1986.)
46.20.599	Alcohol violators—Confiscation of license, issuance of temporary license. (Effective until December 31, 1985.)
46.20.600	Alcohol violators—Duties of arresting officer—Confiscation of license, issuance of temporary license, notice, report. (Effective January 1, 1986.)
46.20.610	Alcohol violators—Term of suspension, revocation, denial. (Effective January 1, 1986.)
46.20.620	Alcohol violators—Notice of department's intent to suspend, revoke, or deny—Hearing, request and opportunity. (Effective January 1, 1986.)
46.20.630	Alcohol violators—Hearings on suspension, revocation, denial—Rules—Time and place—Procedures. (Effective January 1, 1986.)
46.20.640	Alcohol violators—Scope of hearing. (Effective January 1, 1986.)
46.20.650	Alcohol violators—Posthearing order. (Effective January 1, 1986.)
46.20.660	Alcohol violators—Appeal of departmental order to superior court—Stay of effective date—Court's options—Costs. (Effective January 1, 1986.)
46.20.670	Alcohol violators—Nonresidents—Notice to state of residence and license. (Effective January 1, 1986.)
46.20.680	Alcohol violators—Two proceedings from same arrest. (Effective until July 1, 1985.)
46.20.680	Alcohol violators—Two proceedings from same arrest. (Effective July 1, 1985.)
46.20.690	Alcohol violators—Administration and enforcement—Rules and forms. (Effective January 1, 1986.)
46.20.700	Alcohol violators—Coordination of license suspensions or revocations. (Effective January 1, 1986.)

46.20.285 Conviction of offenses for which mandatory revocation of license by department required. (Effective until July 1, 1985.) The department shall forthwith revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years;

(2) Vehicular assault;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle, upon a showing by the department's records that the conviction is the second such conviction for the driver within a period of five years. Upon a showing that the conviction is the third such conviction for the driver within a period of five years, the period of revocation shall be two years;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years. [1983 c 165 § 15; 1965 ex.s. c 121 § 24.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308; but consider notes following RCW 3.30.010 relating to effective dates of 1984 c 258.

Revocation of license for attempting to elude pursuing police vehicle: RCW 46.61.024.

Suspension or revocation of license for driving under the influence of intoxicating liquor or drugs: RCW 46.61.515.

Vehicular assault, penalty: RCW 46.61.522.

Vehicular homicide, penalty: RCW 46.61.520.

46.20.285 Conviction of offenses for which mandatory revocation of license by department required. (Effective July 1, 1985.) The department shall forthwith revoke the license of any driver for the period of one calendar year unless otherwise provided in this section, upon receiving a record of the driver's conviction of any of the following offenses, when the conviction has become final:

(1) For vehicular homicide the period of revocation shall be two years;

(2) Vehicular assault;

(3) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle, upon a showing by the department's records that the conviction is the second such conviction for the driver within a period of five years. Upon a showing that the conviction is the third such conviction for the driver within a period of five years, the period of revocation shall be two years. A revocation imposed under this subsection shall run concurrently with any corresponding revocation which may be imposed by the department pursuant to RCW 46.20.610 or 46.61.515(3) arising out of the same arrest;

(4) Any felony in the commission of which a motor vehicle is used;

(5) Failure to stop and give information or render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(6) Perjury or the making of a false affidavit or statement under oath to the department under Title 46 RCW or under any other law relating to the ownership or operation of motor vehicles;

(7) Reckless driving upon a showing by the department's records that the conviction is the third such conviction for the driver within a period of two years. [1984 c 258 § 324; 1983 c 165 § 16; 1983 c 165 § 15; 1965 ex.s. c 121 § 24.]

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.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Revocation of license for attempting to elude pursuing police vehicle: RCW 46.61.024.

Suspension or revocation of license for driving under the influence of intoxicating liquor or drugs: RCW 46.61.515.

Vehicular assault, penalty: RCW 46.61.522.

Vehicular homicide, penalty: RCW 46.61.520.

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood. (Effective until January 1, 1986.) (1) Any person who operates a motor vehicle upon the public highways of this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. The officer shall inform the person of his or her right to refuse the test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test. The officer shall warn the driver that his refusal to take the test may be used against him in any subsequent criminal trial.

Unless the person to be tested is unconscious, the chemical test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested. In such circumstances, the provisions of subsections (2) through (6) of this section shall not apply.

(2) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506.

(3) If, following his or her arrest, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his or her breath, after being informed that his refusal will result in the revocation or denial of his privilege to drive, no test shall be given. The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person

had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of one year after the date of the alleged violation or for two years if it is the second such refusal in a five-year period, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, as directed in this section, the department shall immediately notify the person involved in writing by personal service or by registered or certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. The person upon receiving the notice may, in writing and within ten days therefrom request a formal hearing. Upon receipt of such request, the department shall afford him an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The scope of the hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his privilege to drive. The department shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(5) If the revocation or determination that there should be a denial of issuance is sustained after such a hearing, the person whose license, privilege, or permit is so affected has the right to file a petition in the superior court of the county in which he or she resides, or, if a nonresident of this state, where the charge arose, to review the final order of revocation or denial by the department in the manner provided in RCW 46.20.334.

(6) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license. [1983 c 165 § 1; 1981 c 260 § 11. Prior: 1979 ex.s. c 176 § 3; 1979 ex.s. c 136 § 59;

1979 c 158 § 151; 1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242, approved November 5, 1968).]

Legislative finding, intent—1983 c 165: "The legislature finds that previous attempts to curtail the incidence of driving while intoxicated have been inadequate. The legislature further finds that property loss, injury, and death caused by drinking drivers have reached unacceptable levels. This act is intended to convey the seriousness with which the legislature views this problem. To that end the legislature seeks to insure swift and certain punishment for those who drink and drive. The legislature does not intend to discourage or deter courts and other agencies from directing or providing treatment for problem drinkers. However, it is the intent that such treatment, where appropriate, be in addition to and not in lieu of the sanctions to be applied to all those convicted of driving while intoxicated." [1983 c 165 § 44.]

Effective dates—1983 c 165: "Sections 2, 3 through 12, 14, 16, 18, 22, 24, and 26 of chapter 165, Laws of 1983 shall take effect on January 1, 1986. The remainder of chapter 165, Laws of 1983 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. The director of licensing may immediately take such steps as are necessary to insure that all sections of chapter 165, Laws of 1983 are implemented on their respective effective dates." [1984 c 219 § 1; 1983 c 165 § 47.]

Severability—1983 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." [1983 c 165 § 48.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

Severability, implied consent law—1969 c 1: See RCW 46.20.911. *Liability of medical personnel withdrawing blood:* RCW 46.61.508.

Refusal of blood alcohol content test—Admissibility as evidence—Conditions: RCW 46.61.517.

46.20.308 Implied consent—Revocation, etc., for refusal to submit to chemical tests to determine alcoholic content of blood. (Effective January 1, 1986.) (1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The officer shall inform the person of his or her right to refuse the test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, (b) that his or her privilege to drive will be suspended, revoked, or denied if the test is administered and the test indicates a concentration of alcohol in his or her blood of 0.10 percent or more, and (c) that his or her refusal to take the test may be used against him or her in a subsequent criminal trial.

(3) Except as provided in this subsection and subsection (4) of this section, the chemical test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his or her breath, no test shall be given except as authorized under subsection (3) or (4) of this section. [1983 c 165 § 2; 1983 c 165 § 1; 1981 c 260 § 11. Prior: 1979 ex.s. c 176 § 3; 1979 ex.s. c 136 § 59; 1979 c 158 § 151; 1975 1st ex.s. c 287 § 4; 1969 c 1 § 1 (Initiative Measure No. 242, approved November 5, 1968).]

Legislative finding, intent—1983 c 165: "The legislature finds that previous attempts to curtail the incidence of driving while intoxicated have been inadequate. The legislature further finds that property loss, injury, and death caused by drinking drivers have reached unacceptable levels. This act is intended to convey the seriousness with which the legislature views this problem. To that end the legislature seeks to insure swift and certain punishment for those who drink and drive. The legislature does not intend to discourage or deter courts and other agencies from directing or providing treatment for problem drinkers. However, it is the intent that such treatment, where appropriate, be in addition to and not in lieu of the sanctions to be applied to all those convicted of driving while intoxicated." [1983 c 165 § 44.]

Effective dates—1983 c 165: "Sections 2, 3 through 12, 14, 16, 18, 22, 24, and 26 of chapter 165, Laws of 1983 shall take effect on January 1, 1986. The remainder of chapter 165, Laws of 1983 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. The director of licensing may immediately take such steps as are necessary to insure that all sections of chapter 165, Laws of 1983 are implemented on their respective effective dates." [1984 c 219 § 1; 1983 c 165 § 47.]

Severability—1983 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." [1983 c 165 § 48.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

Severability, implied consent law—1969 c 1: See RCW 46.20.911.

Liability of medical personnel withdrawing blood: RCW 46.61.508.

Refusal of blood alcohol content test—Admissibility as evidence—Conditions: RCW 46.61.517.

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective until July 1, 1985.) (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342 or 46.61.515. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, or pursuant to RCW 46.20.291, the suspension shall remain in effect and the department shall not issue to the person any new, duplicate, or renewal license until the person pays a reinstatement fee of twenty dollars and gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the reinstatement fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date on which the revoked license was surrendered to and received by the department; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(5) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; or (e) after the expiration of two years in cases of revocation for the second refusal within five years to submit to a chemical test under RCW 46.20.308. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reinstatement fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reinstatement fee shall be fifty dollars. The department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. A resident without a license or permit whose license or permit was denied under RCW 46.20.308(3) shall give and thereafter maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020, the suspension shall remain in effect and the department shall not issue to the person any new or renewal license until the person pays a reinstatement fee of twenty dollars. If the suspension is the result of a violation of the laws of another state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the

reinstatement fee shall be fifty dollars. [1983 c 165 § 17; 1982 c 212 § 5; 1981 c 91 § 1; 1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242, approved November 5, 1968); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308; but consider notes following RCW 3.30.010 relating to effective dates of 1984 c 258.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability, implied consent law—1969 c 1: See RCW 46.20.911.

46.20.311 Duration of suspension or revocation—Conditions for reissuance or renewal. (Effective July 1, 1985.) (1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as permitted under RCW 46.20.342 or 46.61.515. Whenever the license of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, or pursuant to RCW 46.20.291, the suspension shall remain in effect and the department shall not issue to the person any new, duplicate, or renewal license until the person pays a reinstatement fee of twenty dollars and gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504 or was imposed under RCW 46.20.610(1) (a) or (b), the reinstatement fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date on which the revoked license was surrendered to and received by the department; (b) after the expiration of the applicable revocation period provided by RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for persons convicted of vehicular homicide; (d) after the expiration of one year in cases of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; or (e) after the expiration of two years in cases of revocation for the second refusal within five years to submit to a chemical test under RCW 46.20.308. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reinstatement fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reinstatement fee shall be fifty dollars. The department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. A resident without a license or permit whose license or permit was denied under RCW 46.20.610 shall give and thereafter

maintain proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020, the suspension shall remain in effect and the department shall not issue to the person any new or renewal license until the person pays a reinstatement fee of twenty dollars. If the suspension is the result of a violation of the laws of another state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reinstatement fee shall be fifty dollars. [1984 c 258 § 325; 1983 c 165 § 18; 1983 c 165 § 17; 1982 c 212 § 5; 1981 c 91 § 1; 1979 ex.s. c 136 § 60; 1973 1st ex.s. c 36 § 1; 1969 c 1 § 2 (Initiative Measure No. 242, approved November 5, 1968); 1967 c 167 § 5; 1965 ex.s. c 121 § 27.]

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.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Severability, implied consent law—1969 c 1: See RCW 46.20.911.

46.20.391 Occupational driver's license—Petition—Eligibility—Restrictions—Cancellation. (Effective until January 1, 1986.) (1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may petition the court for a stay of the effect of the mandatory suspension or revocation for the purpose of submitting to the department an application for an occupational driver's license. The court upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle may stay the effect of the mandatory suspension or revocation, notwithstanding RCW 46.20.270, for a period of not more than thirty days and may set definite restrictions as provided in RCW 46.20.393. No person may petition for, and the court may not order, a stay affecting the first thirty days of any suspension or revocation imposed under RCW 46.61.515.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the present conviction the applicant has not been convicted of any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the present conviction the applicant has not been convicted more than once of driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor under RCW 46.61.502 or 46.61.504,

of vehicular homicide under RCW 46.61.520, or of vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The department, upon receipt of an application and the prescribed fee, may issue an occupational driver's license to any person eligible under this section that permits the operation of a motor vehicle only within the limits established by the court and only when the operation is essential to the licensee's occupation or trade. No person may apply for, and the department may not issue, an occupational license for the first thirty days of any suspension or revocation imposed under RCW 46.61.515.

(4) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title. [1983 c 165 § 23; 1983 c 164 § 4; 1979 c 61 § 13; 1973 c 5 § 1.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.391 Occupational driver's license—Application—Eligibility—Restrictions—Cancellation.

(Effective January 1, 1986.) (1) Any person licensed under this chapter whose driving privilege has been suspended or revoked under RCW 46.20.610(1)(b)(i) or who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed under RCW 46.61.515 or pursuant to RCW 46.20.610(1)(b)(i). A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the present conviction or administrative action, the applicant has not been convicted of any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the present conviction or administrative action, the applicant has not been convicted more than once of driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor under RCW 46.61.502 or 46.61.504, of vehicular homicide under RCW 46.61.520, or of vehicular assault under RCW 46.61.522, or had a license administratively suspended or revoked under RCW 46.20.610; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has had a driver's license administratively suspended or revoked under RCW 46.20.610 or has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction or administrative action, and continues with the same force and effect as any suspension or revocation under this title. [1983 c 165 § 24; 1983 c 165 § 23; 1979 c 61 § 13; 1973 c 5 § 1.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.394 Occupational driver's license—Departmental issuance—Detailed restrictions—Violation.

(Effective January 1, 1986.) In issuing an occupational driver's license under RCW 46.20.391, the department shall describe the type of occupation permitted and shall set forth in detail the specific hours of the day during which the person may drive to and from his place of work, which may not exceed twelve hours in any one day; the days of the week during which the license may be used; and the general routes over which the person may travel. These restrictions shall be prepared in written form by the department, which document shall be carried in the vehicle at all times and presented to a law enforcement officer under the same terms as the occupational driver's license. Any violation of the restrictions constitutes a violation of RCW 46.20.342 and subjects the person to all procedures and penalties therefor. [1983 c 165 § 26.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.599 Alcohol violators—Confiscation of license, issuance of temporary license.

(Effective until December 31, 1985.) (1) Whenever any person is arrested for a violation of RCW 46.61.502 or 46.61.504, the arresting officer shall, at the time of arrest, confiscate the person's Washington state license or permit to drive, if any, and issue a temporary license to replace any confiscated license or permit.

(2) Within twenty-four hours of the arrest, the arresting officer shall transmit any confiscated license or

permit to the department with a report indicating the date and location of the arrest.

(3) Any temporary license issued under this section shall be dated with the same expiration date as the confiscated license or permit. A temporary license shall be valid only until the sooner of:

(a) Its expiration date; or

(b) The suspension, revocation, or denial by judicial or administrative action for any reason of the license, permit, or privilege to drive of the person holding the temporary license.

(4) The department shall return, replace, or authorize renewal of any confiscated license or permit that has not been suspended or revoked for any reason upon notification:

(a) By the law enforcement agency that made the arrest that a charge has not been filed for the offense for which the license or permit was confiscated;

(b) By the prosecuting authority of the jurisdiction in which the offense occurred that the charge has been dropped or changed to other than one for which confiscation is required under this section; or

(c) By the court in which the case has been or was to be heard that the charge has been dismissed or that the person charged has been found not guilty of the charge; or

(d) By a court that the person has been convicted of the offense for which the license or permit was confiscated, but the suspension or revocation of the license or permit has been stayed pending appeal of the conviction.

(5) If a temporary license issued under this section expires before the department receives notification under subsection (4) of this section, the department shall authorize the driver to seek renewal of the license. If the driver is qualified for renewal, the department shall issue a new temporary license with the same expiration date as the driver would have received had his or her license or permit not been confiscated.

(6) Upon receipt of a returned or replaced confiscated license from the department, the driver shall return any temporary license in his or her possession or shall sign an affidavit that the temporary license has been lost, stolen, or destroyed.

(7) No temporary license issued under this section is valid to any greater degree than the confiscated license or permit that it replaces.

(8) The department shall provide courts and law enforcement agencies with the appropriate temporary license and notice forms for use under this section.

(9) This section shall expire on December 31, 1985. [1984 c 219 § 2.]

46.20.600 Alcohol violators—Duties of arresting officer—Confiscation of license, issuance of temporary license, notice, report. (Effective January 1, 1986.) (1) If, after arrest and after the other applicable conditions and requirements of RCW 46.20.308 have been satisfied, a person submits to a chemical test of his or her blood, breath, or other bodily fluids, or such a test has been administered without that person's express consent as permitted by RCW 46.20.308 (3) or (4), and the test

results indicate an alcoholic concentration in that person's blood of 0.10 percent or more by weight, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by RCW 46.20.620;

(b) Confiscate the person's Washington state license or permit to drive, if any;

(c) Issue a temporary license as provided for in subsection (2) of this section to any driver who surrenders a current and valid license; and

(d) Immediately notify the department of licensing of the arrest and transmit to the department of licensing any confiscated license or permit and a sworn report that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both; and

(ii) That after receipt of the warnings required by RCW 46.20.308(2) the person refused to submit, or submitted to chemical testing, or that a test was administered without the person's express consent as permitted under RCW 46.20.308 (3) or (4); and

(iii) That, if a test was administered, the applicable requirements of RCW 46.20.308 were met before administration of the test and that the test was administered in accordance with RCW 46.61.506; and

(iv) That the results of any test administered indicated an alcoholic concentration in that person's blood of 0.10 percent or more.

(2) The department shall provide law enforcement agencies with temporary license forms and written notice statements for use under subsection (1) of this section. Any temporary license issued under subsection (1) of this section shall indicate that it is effective for forty-five days from the arrest or, until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to RCW 46.20.630, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces. [1983 c 165 § 3.]

~~Legislative finding, intent—Effective dates—Severability—~~
1983 c 165: See notes following RCW 46.20.308.

46.20.610 Alcohol violators—Term of suspension, revocation, denial. (Effective January 1, 1986.) (1) The department shall suspend, revoke, or deny the arrested person's driving privileges as follows:

(a) In the case of a person who has refused a test:

(i) For a first refusal within five years, revocation or denial for one year;

(ii) For a second refusal within five years, revocation or denial for two years.

(b) In the case of a person who has submitted to or been administered a test indicating a blood alcohol concentration of 0.10 percent or more:

(i) For a first incident within five years, suspension or denial for ninety days;

(ii) For a second incident within five years, revocation or denial for one year;

(iii) For a third incident within five years, revocation or denial for two years.

(c) A suspension, revocation, or denial shall take effect when sustained at a hearing under RCW 46.20.630, or forty-five days after the person's arrest if no hearing was requested, whichever occurs first.

(2) The department shall not grant or reinstate a person's privilege to drive that has been suspended, revoked, or denied under subsection (1) of this section until it has determined the person is eligible for reinstatement under RCW 46.20.031 and 46.61.515 and is otherwise qualified.

(3) For purposes of this section and RCW 46.20.620, driving privileges include:

(a) A Washington state driver's license or permit;

(b) A nonresident privilege to drive; and

(c) The privilege of a person to apply for a new or duplicate license or permit or to renew a license, permit, or nonresident privilege. [1983 c 165 § 4.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.620 Alcohol violators—Notice of department's intent to suspend, revoke, or deny—Hearing, request and opportunity. (Effective January 1, 1986.)

No suspension, revocation, or denial of a driving privilege under RCW 46.20.610 is effective until the department of licensing or a law enforcement officer acting on its behalf notifies the person in writing by personal service, by certified mail, or by first class mail addressed to that person's last known address of record with the department of the department's intention to suspend, revoke, or deny together with the grounds therefor and allows the person a seven-day period to request in writing that the department provide a hearing as provided in RCW 46.20.630. The notice shall specify the steps the person must take to obtain a hearing. If no written request for a hearing is postmarked or delivered to the department within seven days from the date of notification, the department shall issue an order effective as provided in RCW 46.20.610. If a request for a hearing is filed in time, the department shall give the person an opportunity for a hearing as provided in RCW 46.20.630. [1983 c 165 § 5.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.630 Alcohol violators—Hearings on suspension, revocation, denial—Rules—Time and place—Procedures. (Effective January 1, 1986.)

(1) Administrative hearings held to determine the propriety of any suspension, revocation, or denial imposed under RCW 46.20.610 shall be in accordance with rules adopted by the director.

(2) The department shall fix a time, no more than forty-five days after arrest, and a place for a hearing to

be held in the county in which the arrest was made that resulted in a report being transmitted under RCW 46.20.600. The hearing may be set for some other county by agreement between the department and the person. If the hearing is not held and an order issued under RCW 46.20.650 within forty-five days after arrest, the suspension, revocation, or denial under RCW 46.20.610 shall not be imposed.

(3) The department shall give the person at least fourteen days advance notice of the time and place of hearing, but the period of notice may be waived by the person. RCW 46.20.332 and 46.20.333 apply to the hearings. The department shall issue a subpoena upon the request of any party and, to the extent required by department rule, upon a statement showing the general relevance and reasonable scope of the evidence sought. The subpoena may be issued with like effect by the person's attorney of record or the office of the attorney general, and the form of the subpoena in each case may be the same as when issued by the agency, except that it shall only be subscribed by the signature of the person's attorney or an assistant attorney general. Every party has the right of cross-examination of any witness who testifies and has the right to submit rebuttal evidence. Subpoenas issued under this section may be enforced in the manner provided by RCW 34.04.105(5).

(4) With respect to arrested drivers who have submitted to or been administered chemical tests, the department by rule may permit the admission into evidence at the hearing of (a) copies of official reports of persons who possess a valid permit or certificate from the state toxicologist to perform tests or chemical analyses of the blood or breath, as to results of particular tests or analyses performed by that person when the copies have been certified as true copies of the report by the writer of the report, under oath, and (b) certificates of Breathalyzer maintenance operators who possess a valid permit or certificate from the state toxicologist, as to the testing and calibration of Breathalyzers or similar machines by that person. The reports or certificates may be admitted without further proof or foundation as prima facie evidence of the facts stated in them unless the arrested driver has given written notice received by the department not less than seven days before the date set for the hearing that he or she requests that the person administering the test, or the Breathalyzer maintenance operator, be produced by the department at the hearing. [1983 c 165 § 6.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.640 Alcohol violators—Scope of hearing. (Effective January 1, 1986.) The scope of the administrative hearing under RCW 46.20.630 shall include:

(1) With respect to a person who has refused a chemical test, the issues of:

(a) Whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor;

(b) Whether the person was placed under arrest; and

(c) Whether the person refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his or her privilege to drive and that the person had the right to additional tests.

(2) With respect to a person upon whom a chemical test was administered, the issues of:

(a) Whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor;

(b) Whether the person was placed under arrest;

(c) Whether the applicable requirements of RCW 46.20.308 were satisfied before the administration of the chemical test;

(d) Whether the person either submitted to the test or a test was administered without express consent as permitted under RCW 46.20.308; and

(e) Whether the test indicated a concentration of alcohol in the person's blood of 0.10 percent, or more. The person may challenge whether the testing methods used were in accordance with RCW 46.61.506 and were valid and reliable. [1983 c 165 § 7.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.650 Alcohol violators—Posthearing order. (Effective January 1, 1986.) After a hearing held under RCW 46.20.630, the department shall order that the appropriate suspension, revocation, or denial of privileges be imposed effective ten days after receipt of the order. In the alternative, the department may order that the administrative action be dismissed. [1983 c 165 § 8.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.660 Alcohol violators—Appeal of departmental order to superior court—Stay of effective date—Court's options—Costs. (Effective January 1, 1986.) (1) If the suspension, revocation, or denial imposed by the department under RCW 46.20.610 is sustained after a hearing, the person whose license, permit, or privilege is affected has the right to file a petition in the superior court of the county of arrest or the county in which the person resides or, if a nonresident of this state, the superior court of Thurston county, for review of the final order of suspension, revocation, or denial by the department. The petition shall be filed within ten days following receipt by the person of the department's final order, or the right to appeal is deemed to have been waived. The review shall be conducted by the court without a jury, and shall be confined to the record, except that in cases of alleged irregularities in procedure before the department, not shown in the record, testimony on that issue may be taken in court. The scope of the review is limited to that prescribed by RCW 7.16-.120, governing writs of certiorari.

(2) The filing of the appeal does not stay the effective date of the suspension, revocation, or denial unless it is stayed by the court after motion and argument. Such a

stay may be granted only if the court finds upon the arguments and affidavits presented that there is a reasonable probability that the petitioner will prevail upon the merits of the petition, that the public interest will not be substantially harmed by the stay, and that the petitioner will suffer irreparable harm if the order is not stayed. If such a stay is granted it shall provide that it is effective only so long as there is no conviction of the petitioner for a moving violation or no finding that the petitioner has committed a traffic infraction which is a moving violation during the pendency of the appeal.

(3) The court may affirm the department's decision, remand the matter for further administrative proceedings, or reverse the department's order of suspension, revocation, or denial.

(4) The actual costs of preparing and transmitting the record to superior court shall be borne by the petitioner and awarded by the court to the department if the department's decision is affirmed. The costs shall be borne by the department if the department's decision is remanded or reversed. [1983 c 165 § 9.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.670 Alcohol violators—Nonresidents—Notice to state of residence and license. (Effective January 1, 1986.) When it has been finally determined under the procedures of RCW 46.20.610 through 46.20.650 that a nonresident's privilege to operate a motor vehicle in this state has been suspended or revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a driver's license. [1983 c 165 § 10.]

Legislative finding, intent—Effective dates—Severability—
1983 c 165: See notes following RCW 46.20.308.

46.20.680 Alcohol violators—Two proceedings from same arrest. (Effective until July 1, 1985.) When the department is required to suspend, revoke, or deny a person's license, permit, or nonresident privilege to drive under either RCW 46.20.610 or under RCW 46.61.515(5), and (1) the department has earlier imposed a suspension, revocation, or denial under the other of those two provisions or is preparing to do so, and (2) each of those two sanctions has been required as the result of civil or criminal proceedings arising from the same arrest, the department shall proceed as follows:

(a) If the civil and criminal sanctions imposed or to be imposed are for the same minimum length of time, the suspension, revocation, or denial imposed by the department is limited to that first imposed and fully effective under one of those provisions;

(b) If the civil and criminal sanctions are of different minimum lengths of time, the department shall impose the sanction of longer duration. If the sanction with the shorter minimum duration has earlier been imposed by the department, the department shall reduce the minimum duration of the longer revocation by the number of

days the license, permit, or privilege to drive was actually under suspension, revocation, or denial pursuant to the earlier action by the department.

If a suspension, revocation, or denial of a person's license, permit, or nonresident privilege to drive would have been imposed by the department under RCW 46.20.610 but for the operation of this section, the suspension, revocation, or denial shall be treated as if it had been imposed for the purposes of determining the minimum duration of subsequent suspensions or revocations required under that section. [1983 c 165 § 11.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308; but consider notes following RCW 3.30.010 relating to effective dates of 1984 c 258.

46.20.680 Alcohol violators—Two proceedings from same arrest. (Effective July 1, 1985.) When the department is required to suspend, revoke, or deny a person's license, permit, or nonresident privilege to drive under either RCW 46.20.610 or under RCW 46.61.515(3), and (1) the department has earlier imposed a suspension, revocation, or denial under the other of those two provisions or is preparing to do so, and (2) each of those two sanctions has been required as the result of civil or criminal proceedings arising from the same arrest, the department shall proceed as follows:

(a) If the civil and criminal sanctions imposed or to be imposed are for the same minimum length of time, the suspension, revocation, or denial imposed by the department is limited to that first imposed and fully effective under one of those provisions;

(b) If the civil and criminal sanctions are of different minimum lengths of time, the department shall impose the sanction of longer duration. If the sanction with the shorter minimum duration has earlier been imposed by the department, the department shall reduce the minimum duration of the longer revocation by the number of days the license, permit, or privilege to drive was actually under suspension, revocation, or denial pursuant to the earlier action by the department.

If a suspension, revocation, or denial of a person's license, permit, or nonresident privilege to drive would have been imposed by the department under RCW 46.20.610 but for the operation of this section, the suspension, revocation, or denial shall be treated as if it had been imposed for the purposes of determining the minimum duration of subsequent suspensions or revocations required under that section. [1984 c 258 § 326; 1983 c 165 § 11.]

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.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.20.690 Alcohol violators—Administration and enforcement—Rules and forms. (Effective January 1, 1986.) (1) The director, or his or her designee, shall administer and enforce the provisions of RCW 46.20.600 through 46.20.680. The director may adopt such rules as

he or she deems necessary to carry out the purposes of RCW 46.20.600 through 46.20.680.

(2) The department shall prescribe and provide such forms as it deems necessary or desirable to carry out the purposes of RCW 46.20.600 through 46.20.680. [1983 c 165 § 12.]

Study of administrative revocation of alcohol violators driver's licenses: "The standing committees on transportation and judiciary of the state senate and house of representatives, with the assistance of the department of licensing, shall conduct a joint study to analyze and evaluate the issues involved in authorizing administrative revocation of the driver's license of a person who operates a motor vehicle while under the influence of alcohol. The study shall include an analysis and evaluation of other states that have enacted statutes that provide for administrative revocation of driver's licenses, the effects on reducing drunken driving, the cost of implementing and administering such a program, and any impacts on the criminal justice system.

The committees shall submit a report that includes their findings and recommendations, together with proposed legislation, to the legislature before January 1, 1984." [1983 c 165 § 43.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.20.700 Alcohol violators—Coordination of license suspensions or revocations. (Effective January 1, 1986.) A suspension or revocation of the license, permit, or nonresident privilege to drive that is required to be imposed by the department of licensing under RCW 46.61.515 shall be coordinated by the department with any suspension or revocation which has been imposed by the department following any civil action it may have taken pursuant to RCW 46.20.600 through 46.20.690 arising out of the same arrest, as required by RCW 46.20.680. [1983 c 165 § 22.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Chapter 46.37

VEHICLE LIGHTING AND OTHER EQUIPMENT

Sections

46.37.420	Restrictions as to tire equipment.
46.37.450	Display of warning devices when vehicle disabled.
46.37.467	Vehicle with alternative fuel source—Placard required.

46.37.420 Restrictions as to tire equipment. (1) It is unlawful to operate a vehicle upon the public highways of this state unless it is completely equipped with pneumatic rubber tires.

(2) No tire on a vehicle moved on a highway may have on its periphery any block, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway, and except also that it is permissible to use tire chains or metal studs imbedded within the tire of reasonable proportions and of a type approved by the state commission on equipment, upon any vehicle when required for safety because of snow, ice, or other

conditions tending to cause a vehicle to skid. It is unlawful to use metal studs imbedded within the tire between April 1st and November 1st. The state department of transportation may, from time to time, determine additional periods in which the use of tires with metal studs imbedded therein is lawful.

(3) The state department of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(4) Tires with metal studs imbedded therein may be used between November 1st and April 1st upon school buses and fire department vehicles, any law or regulation to the contrary notwithstanding. [1984 c 7 § 50; 1971 ex.s. c 32 § 1; 1969 ex.s. c 7 § 1; 1961 c 12 § 46.37.420. Prior: 1955 c 269 § 42; prior: (i) 1937 c 189 § 41; RRS § 6360-41; RCW 46.36.100. (ii) 1937 c 189 § 42; RRS § 6360-42; RCW 46.36.120; 1929 c 180 § 7; 1927 c 309 § 46; RRS § 6362-46.]

Severability—1984 c 7: See note following RCW 47.01.141.

Dangerous road conditions requiring special tires, chains, metal studs: RCW 47.36.250.

Motorcycles and motor-driven cycles—Additional requirements and limitations: RCW 46.37.539.

46.37.450 Display of warning devices when vehicle disabled. (1) Whenever any motor truck, passenger bus, truck tractor over eighty inches in overall width, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside any municipality at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection (2) of this section:

(a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order:

(i) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.

(ii) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(iii) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector

has been placed at the traffic side of the vehicle in accordance with subdivision (a) of this subsection, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than five hundred feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) of this section shall be placed as follows:

One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection (1) of this section, the driver of such vehicle shall immediately display the following warning devices: One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) Whenever any vehicle, other than those described in subsection (1) of this section, is disabled upon the traveled portion of any highway or shoulder thereof outside any municipality at any time when lights are required on vehicles, the state patrol or the county sheriff shall, upon discovery of the disabled vehicle, place a reflectorized warning device on or near the vehicle. The warning device and its placement shall be in accordance

with rules adopted by the commission on equipment. Neither the standards for, placement or use of, nor the lack of placement or use of a warning device under this subsection gives rise to any civil liability on the part of the state of Washington, the state patrol, any county, or any law enforcement agency or officer.

(7) The flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of RCW 46.37.440 applicable thereto. [1984 c 119 § 1; 1961 c 12 § 46.37.450. Prior: 1955 c 269 § 45; prior: 1947 c 267 § 7, part; Rem. Supp. 1947 § 6360-32a, part; RCW 46.40.210, part.]

46.37.467 Vehicle with alternative fuel source—Placard required. (1) Every automobile, truck, motorcycle, motor home, or off-road vehicle that is fueled by an alternative fuel source shall bear a reflective placard issued by the national fire protection association indicating that the vehicle is so fueled. Violation of this subsection is a traffic infraction.

(2) As used in this section "alternative fuel source" includes propane, compressed natural gas, liquid petroleum gas, or any chemically similar gas but does not include gasoline or diesel fuel.

(3) If a placard for a specific alternative fuel source has not been issued by the national fire protection association, a placard issued by the state fire marshal shall be required. The state fire marshal shall develop rules for the design, size, and placement of the placard which shall remain effective until a specific placard is issued by the national fire protection association. [1984 c 145 § 1; 1983 c 237 § 2.]

Legislative finding—1983 c 237: "The legislature finds that vehicles using alternative fuel sources such as propane, compressed natural gas, liquid petroleum gas, or other hydrocarbon gas fuels require fire fighters to use a different technique if the vehicles catch fire. A reflective placard on such vehicles would warn fire fighters of the danger so they could react properly." [1983 c 237 § 1.]

Chapter 46.39

INTERSTATE COMPACT FOR SCHOOL BUS SAFETY

Sections

46.39.020 Designation of Washington state commissioners.

46.39.020 Designation of Washington state commissioners. The Washington state commissioners to the western states school bus safety commission shall be the secretary of transportation, the superintendent of public instruction, and the chief of the Washington state patrol or their respective designees. Annually the Washington commissioners shall elect a chairman from their own membership who shall serve for one year commencing July 1st. Election as chairman shall not interfere with the member's right to vote on all matters before the Washington commissioners. The Washington commissioners may by majority vote designate one of their members to represent the state on any matter coming

before the Western states school bus safety commission. [1984 c 7 § 51; 1977 ex.s. c 88 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 46.44

SIZE, WEIGHT, LOAD

Sections

46.44.020	Maximum height—Impaired clearance signs.
46.44.030	Maximum lengths.
46.44.037	Combination of units—Lawful operations.
46.44.049	Effect of weight on highways—Study authorized.
46.44.093	Special permits for oversize or overweight movements—Discretion of issuer—Conditions.
46.44.096	Special permits for oversize or overweight movements—Determining fee—To whom paid.
46.44.098	Increase in federal limits on sizes and weights—Commission authorized to allow increases.
46.44.105	Enforcement provisions—Penalties, suspensions, fines, and forfeitures—Jurisdiction—Remittance of penalties—Confiscation, revocation, and cancellation of permits—Rules. (Effective July 1, 1985.)
46.44.110	Liability for damage to highways, bridges, etc.
46.44.140	Farm implements—Special permits—Penalty.
46.44.173	Notice to treasurer and assessor of county where mobile home to be located.

46.44.020 Maximum height—Impaired clearance signs. It is unlawful for any vehicle unladen or with load to exceed a height of fourteen feet above the level surface upon which the vehicle stands. This height limitation does not apply to authorized emergency vehicles or repair equipment of a public utility engaged in reasonably necessary operation. The provisions of this section do not relieve the owner or operator of a vehicle or combination of vehicles from the exercise of due care in determining that sufficient vertical clearance is provided upon the public highways where the vehicle or combination of vehicles is being operated; and no liability may attach to the state or to any county, city, town, or other political subdivision by reason of any damage or injury to persons or property by reason of the existence of any structure over or across any public highway where the vertical clearance above the roadway is fourteen feet or more; or, where the vertical clearance is less than fourteen feet, if impaired clearance signs of a design approved by the state department of transportation are erected and maintained on the right side of any such public highway in accordance with the manual of uniform traffic control devices for streets and highways as adopted by the state department of transportation under chapter 47.36 RCW. If any structure over or across any public highway is not owned by the state or by a county, city, town, or other political subdivision, it is the duty of the owner thereof when billed therefor to reimburse the state department of transportation or the county, city, town, or other political subdivision having jurisdiction over the highway for the actual cost of erecting and maintaining the impaired clearance signs, but no liability may attach to the owner by reason of any damage or injury to persons or property caused by impaired vertical clearance above the roadway. [1984 c 7 § 52; 1977 c 81 § 1; 1975-'76 2nd ex.s. c 64 § 7; 1971 ex.s. c 248 § 1;

1965 c 43 § 1; 1961 c 12 § 46.44.020. Prior: 1959 c 319 § 26; 1955 c 384 § 1; 1953 c 125 § 1; 1951 c 269 § 20; 1937 c 189 § 48; RRS § 6360-48.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.030 Maximum lengths. It is unlawful for any person to operate upon the public highways of this state any vehicle other than a municipal transit vehicle having an overall length, with or without load, in excess of forty feet: *Provided*, That an auto stage or school bus shall not exceed an overall length, inclusive of front and rear bumpers, of forty feet: *Provided further*, That the route of any auto stage in excess of thirty-five feet or school bus in excess of thirty-six feet six inches upon or across the public highways shall be limited as determined by the department of transportation for state highways, or by the local legislative authority for other public roads.

It is unlawful for any person to operate on the highways of this state any combination of vehicles that contains a vehicle of which the permanent structure is in excess of forty-eight feet.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of forty-eight feet or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds fifty-nine feet.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer with an overall length, with or without load, in excess of sixty-five feet, or a combination consisting of a tractor and a stinger steered semitrailer that has an overall length in excess of sixty-five feet without load or in excess of seventy feet with load.

"Stinger steered" as used in this section means a tractor and semitrailer combination that has the coupling connecting the semitrailer to the tractor located to the rear of the center line of the rear axle of the tractor.

These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

The length limitations described in this section are exclusive of safety and energy conservation devices, such as mud flaps and splash and spray suppressant devices, refrigeration units or air compressors, and other devices that the department determines to be necessary for safe and efficient operation of commercial vehicles. No device excluded under this paragraph from the limitations of this section may have, by its design or use, the capability to carry cargo. [1984 c 104 § 1; 1983 c 278 § 2; 1979 ex.s. c 113 § 4; 1977 ex.s. c 64 § 1; 1975-'76 2nd ex.s. c 53 § 1; 1974 ex.s. c 76 § 2; 1971 ex.s. c 248 § 2;

1967 ex.s. c 145 § 61; 1963 ex.s. c 3 § 52; 1961 ex.s. c 21 § 36; 1961 c 12 § 46.44.030. Prior: 1959 c 319 § 25; 1957 c 273 § 14; 1951 c 269 § 22; prior: 1949 c 221 § 1, part; 1947 c 200 § 5, part; 1941 c 116 § 1, part; 1937 c 189 § 49, part; Rem. Supp. 1949 § 6360-49, part.]

Reviser's note: This section was amended by 1983 c 278 § 2 and by 1984 c 104 § 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—1967 ex.s. c 145: See RCW 47.98.043.

46.44.037 Combination of units—Lawful operations. Notwithstanding the provisions of RCW 46.44.036 and subject to such rules and regulations governing their operation as may be adopted by the state department of transportation, operation of the following combinations is lawful:

(1) A combination consisting of a truck tractor, a semitrailer, and another semitrailer or a full trailer. In this connection a converter gear used to convert a semitrailer into a full trailer shall be considered to be a part of the full trailer and not a separate vehicle. A converter gear being pulled without load and not used to convert a semitrailer into a full trailer may be substituted in lieu of a full trailer or a semitrailer in any lawful combination;

(2) A combination consisting of three trucks or truck tractors used in driveaway service where two of the vehicles are towed by the third in double saddle mount position. [1984 c 7 § 53; 1979 ex.s. c 149 § 3; 1975-'76 2nd ex.s. c 64 § 9; 1965 ex.s. c 170 § 37; 1963 ex.s. c 3 § 53; 1961 c 12 § 46.44.037. Prior: 1957 c 273 § 16; 1955 c 384 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.049 Effect of weight on highways—Study authorized. The department of transportation may make and enter into agreements with the federal government or any state or group of states or agencies thereof, or any nonprofit association, on a joint or cooperative basis, to study, analyze, or test the effects of weight on highway construction. The studies or tests may be made either by designating existing highways or the construction of test strips including natural resource roads to the end that a proper solution of the many problems connected with the imposition on highways of motor vehicle weights may be determined.

The studies may include the determination of values to be assigned various highway-user groups according to their gross weight or use. [1984 c 7 § 54; 1961 c 12 § 46.44.049. Prior: 1951 c 269 § 47.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.44.093 Special permits for oversize or overweight movements—Discretion of issuer—Conditions. The department of transportation or the local authority is authorized to issue or withhold such special permit at its discretion; or, if the permit is issued, to limit the number of trips, or to establish seasonal or other time limitations

within which the vehicle described may be operated on the public highways indicated, or otherwise to limit or prescribe conditions of operation of the vehicle or vehicles when necessary to assure against undue damage to the road foundation, surfaces, or structures or safety of traffic and may require such undertaking or other security as may be deemed necessary to compensate for injury to any roadway or road structure. [1984 c 7 § 55; 1961 c 12 § 46.44.093. Prior: 1951 c 269 § 37; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.44.096 Special permits for oversize or overweight movements—Determining fee—To whom paid. In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the state department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible.

If, pursuant to RCW 46.44.090, cities or counties issue additional tonnage permits similar to those provided for issuance by the state department of transportation in RCW 46.44.095, the state department of transportation shall authorize the use of the additional tonnage permits on state highways subject to the following conditions:

(1) The owner of the vehicle covered by such permit shall establish to the satisfaction of the state department of transportation that the primary use of the vehicle is on the streets or roads of the city or county issuing the additional tonnage permit;

(2) That the fees paid for the additional tonnage are not less than those established in RCW 46.44.095;

(3) That the city or county issuing the permit shall allow the use of permits issued by the state pursuant to RCW 46.44.095 on the streets or roads under its jurisdiction;

(4) That all of the provisions of RCW 46.44.042 and 46.44.041 shall be observed.

When the department of transportation is satisfied that the above conditions have been met, the department of transportation, by suitable endorsement on the permit, shall authorize its use on such highways as the department has authorized for such permits pursuant to RCW 46.44.095, and all such use of such highways is subject to whatever rules and regulations the state department of transportation has adopted for the permits. [1984 c 7 § 56; 1975-'76 2nd ex.s. c 64 § 18; 1971 ex.s. c 248 § 4; 1969 ex.s. c 281 § 31; 1961 c 12 § 46.44.096. Prior: 1955 c 185 § 2; 1951 c 269 § 40; prior: 1949 c 221 § 3, part; 1947 c 200 § 7, part; 1945 c 177 § 1, part; 1937 c 189 § 55, part; Rem. Supp. 1949 § 6360-55, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.098 Increase in federal limits on sizes and weights—Commission authorized to allow increases. If the congress of the United States further amends section 127, Title 23 of the United States Code, authorizing increased sizes and weights, the Washington state department of transportation may authorize the operation of vehicles and combinations of vehicles upon completed portions of the interstate highway system and other designated state highways if determined to be capable of accommodating the increased sizes and weights in excess of those prescribed in RCW 46.44.041, or as provided in RCW 46.44.010 and 46.44.037. The permitted increases shall not in any way exceed the federal limits which would jeopardize the state's allotment of federal funds. [1984 c 7 § 57; 1975-'76 2nd ex.s. c 64 § 19; 1965 c 38 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.105 Enforcement provisions—Penalties, suspensions, fines, and forfeitures—Jurisdiction—Remittance of penalties—Confiscation, revocation, and cancellation of permits—Rules. (Effective July 1, 1985.) (1) Violation of any of the provisions of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, and 46.44.041, or failure to obtain a permit as provided by RCW 46.44.090 and 46.44.095, or misrepresentation of the size or weight of any load or failure to follow the requirements and conditions of a permit issued hereunder is a traffic infraction, and upon the first finding

thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(2) In addition to the penalties imposed in subsection (1) of this section, any person violating RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 shall be assessed three cents for each pound of excess weight. Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case may the basic penalty assessed in subsection (1) of this section be suspended.

(3) Whenever any vehicle or combination of vehicles is involved in two violations of RCW 46.44.042, 46.44.047, 46.44.090, 46.44.091, 46.44.095, or 46.44.041 during any twelve-month period, the court may suspend the certificate of license registration of the vehicle or combination of vehicles for not less than thirty days. Upon a third or succeeding violation in any twelve-month period, the court shall suspend the certificate of license registration for not less than thirty days. Whenever the certificate of license registration is suspended, the court shall secure such certificate and immediately forward the same to the director with information concerning the suspension.

(4) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(5) Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined five hundred dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(6) Any other provision of law to the contrary notwithstanding, *justice courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(7) For the purpose of determining additional penalties as provided by subsection (2) of this section, "excess weight" means the poundage in excess of the maximum gross weight prescribed by RCW 46.44.042 and 46.44.041 plus the weights allowed by RCW 46.44.047, 46.44.091, and 46.44.095.

(8) The penalties provided in subsections (1) and (2) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under the provisions of subsections (1) and (2) of this section the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

(9) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.037, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke, cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095 as now or hereafter amended, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

(10) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section. [1984 c 258 § 327; 1984 c 7 § 58; 1979 ex.s. c 136 § 75; 1975-'76 2nd ex.s. c 64 § 23.]

*Reviser's note: Reference to "justice courts" to be construed as meaning "district courts"; see RCW 3.30.015.

Rules of court: Monetary penalty schedule—JTIR 6.2.

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.

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Effective dates—Severability—1975-'76 2nd ex.s. c 64: See notes following RCW 46.16.070.

46.44.110 Liability for damage to highways, bridges, etc. Any person operating any vehicle or moving any object or conveyance upon any public highway in this state or upon any bridge or elevated structure that is a part of any such public highway is liable for all damages that the public highway, bridge, or elevated structure may sustain as a result of any illegal operation of the vehicle or the moving of any such object or conveyance or as a result of the operation or moving of any vehicle, object, or conveyance weighing in excess of the legal weight limits allowed by law. This section applies to any person operating any vehicle or moving any object or contrivance in any illegal or negligent manner or without a special permit as provided by law for vehicles, objects, or contrivances that are overweight, overwidth, overheight, or overlength. Any person operating any vehicle is liable for any damage to any public highway, bridge, or elevated structure sustained as the result of any negligent operation thereof. When the operator is not the owner of the vehicle, object, or contrivance but is operating or moving it with the express or implied permission of the owner, the owner and the operator are jointly and severally liable for any such damage. Such damage to any state highway or structure may be recovered in a civil action instituted in the name of the state of Washington by the department of transportation. Any measure of damage to any public highway determined by the department of transportation by reason of this section is prima facie the amount of damage caused thereby and is presumed to be the amount recoverable in any civil action therefor. [1984 c 7 § 59; 1961 c 12 § 46.44.110. Prior: 1937 c 189 § 57; RRS 6360-57.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.44.140 Farm implements—Special permits—Penalty. In addition to any other special permits authorized by law, special permits may be issued by the department of transportation for a quarterly or annual period upon such terms and conditions as it finds proper for the movement of (1) farm implements used for the cutting or threshing of mature crops; or (2) other farm implements that may be identified by rule of the department of transportation. Any farm implement moved under this section must have a gross weight less than forty-five thousand pounds and a total outside width of less than twenty feet while being moved, and such movement must be patrolled, flagged, lighted, signed, at a time of day, and otherwise in accordance with rules hereby authorized to be adopted by the department of transportation for the control of such movements.

Applications for and permits issued under this section shall provide for a description of the farm implements to be moved, the approximate dates of movement, and the routes of movement so far as they are reasonably known

to the applicant at the time of application, but the permit shall not be limited to these circumstances but shall be general in its application except as limited by the statutes and rules adopted by the department of transportation.

A copy of the governing permit shall be carried on the farm implement being moved during the period of its movement. The department shall collect a fee as provided in RCW 46.44.0941.

Violation of a term or condition under which a permit was issued, of a rule adopted by the department of transportation as authorized by this section, or of a term of this section is a traffic infraction. [1984 c 7 § 60; 1979 ex.s. c 136 § 77; 1973 1st ex.s. c 1 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.44.173 Notice to treasurer and assessor of county where mobile home to be located. (1) Upon validation of a special permit as provided in RCW 46.44.170, the county treasurer shall forward notice of movement of the mobile home to the treasurer's own county assessor and to the county assessor of the county in which the mobile home will be located.

(2) When a single trip special permit not requiring tax certification is issued, the department of transportation or the local authority shall notify the assessor of the county in which the mobile home is to be located. When a continuous trip special permit is used to transport a mobile home not requiring tax certification, the transporter shall notify the assessor of the county in which the mobile home is to be located. Notification is not necessary when the destination of a mobile home is a manufacturer, distributor, retailer, or location outside the state.

(3) A notification under this section shall state the specific, residential destination of the mobile home. [1984 c 7 § 61; 1977 ex.s. c 22 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1977 ex.s. c 22: See note following RCW 46.04.302.

Chapter 46.52

ACCIDENTS—REPORTS—ABANDONED VEHICLES

Sections

46.52.120 Case record of convictions and traffic infractions—
Cross-reference to accident reports.

46.52.120 Case record of convictions and traffic infractions—Cross-reference to accident reports. (1)

The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the

index cross-reference record to the director, with reference to each driver involved in the reported accidents.

(2) The case record shall be maintained in two parts.

(a) One part shall be the employment driving record of the person. This part shall include all motor vehicle accidents in which the person is involved while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, all convictions of the person for violation of the motor vehicle laws while the person is driving a commercial motor vehicle as an employee of another or an owner-operator, and all findings that the person has committed a traffic infraction while the person is driving a commercial motor vehicle as an employee of another or an owner-operator. The same reports shall be entered when the person is a law enforcement officer or fire fighter as defined in RCW 41.26.030, or a state patrol officer, and is driving an official police, state patrol, or fire department vehicle in the course of their official duties.

(b) The other part shall include all other accidents, convictions, and findings that the person has committed a traffic infraction.

(3) Such records shall be for the confidential use of the director and the chief of the Washington state patrol and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(4) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law. [1984 c 99 § 1; 1982 c 52 § 1; 1979 ex.s. c 136 § 83; 1977 ex.s. c 356 § 1; 1967 c 32 § 62; 1961 c 12 § 46.52.120. Prior: 1937 c 189 § 144; RRS § 6360-144.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.61

RULES OF THE ROAD

Sections

- 46.61.085 Traffic control signals or devices upon city streets forming part of state highways—Approval by department of transportation.
- 46.61.130 No-passing zones.
- 46.61.135 One-way roadways and rotary traffic islands.
- 46.61.165 Reservation of portion of highway for use by public transportation vehicles, etc.
- 46.61.195 Arterial highways designated—Stopping on entering.

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- 46.61.200 Stop intersections other than arterial may be designated.
- 46.61.290 Required position and method of turning at intersections.
- 46.61.345 All vehicles must stop at certain railroad grade crossings.
- 46.61.380 Rules for design, marking, and mode of operating school buses.
- 46.61.428 Slow-moving vehicle permitted to drive on improved shoulders, when.
- 46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drugs—Penalties—Alcohol or drug problem, treatment—Suspension or revocation of license—Appeal. (Effective July 1, 1985.)
- 46.61.518 Repealed. (Effective July 1, 1985.)
- 46.61.519 Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions.
- 46.61.5191 Local ordinances not prohibited.
- 46.61.5195 Disguising alcoholic beverage container.
- 46.61.560 Stopping, standing, or parking outside business or residence districts.
- 46.61.565 Officers authorized to remove certain vehicles.
- 46.61.580 Repealed.
- 46.61.581 Indication of parking space for disabled persons.
- 46.61.582 Free parking by disabled persons.
- 46.61.583 Special plate, card, or decal issued by another jurisdiction.
- 46.61.587 Winter recreational parking areas—Penalty. (Effective July 1, 1985.)

46.61.085 Traffic control signals or devices upon city streets forming part of state highways—Approval by department of transportation. No traffic control signal or device may be erected or maintained upon any city street designated as forming a part of the route of a primary state highway or secondary state highway unless first approved by the state department of transportation. [1984 c 7 § 62; 1965 ex.s. c 155 § 14.]

Severability—1984 c 7: See note following RCW 47.01.141.

Local authorities to provide stop signs at intersections with increased speed highways: RCW 46.61.435.

46.61.130 No-passing zones. (1) The state department of transportation and the local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

(2) Where signs or markings are in place to define a no-passing zone as set forth in subsection (1) of this section, no driver may at any time drive on the left side of the roadway within the no-passing zone or on the left side of any pavement striping designed to mark the no-passing zone throughout its length.

(3) This section does not apply under the conditions described in RCW 46.61.100(1)(b), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway. [1984 c 7 § 63; 1972 ex.s. c 33 § 3; 1965 ex.s. c 155 § 21.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1984 c 7: See note following RCW 47.01.141.

46.61.135 One-way roadways and rotary traffic islands. (1) The state department of transportation and the local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic control devices.

(2) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(3) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. [1984 c 7 § 64; 1975 c 62 § 24; 1965 ex.s. c 155 § 22.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.165 Reservation of portion of highway for use by public transportation vehicles, etc. The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of public transportation vehicles or private motor vehicles carrying no fewer than a specified number of passengers when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. [1984 c 7 § 65; 1974 ex.s. c 133 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.61.195 Arterial highways designated—Stopping on entering. All state highways are hereby declared to be arterial highways as respects all other public highways or private ways, except that the state department of transportation has the authority to designate any county road or city street as an arterial having preference over the traffic on the state highway if traffic conditions will be improved by such action.

Those city streets designated by the state department of transportation as forming a part of the routes of state highways through incorporated cities and towns are declared to be arterial highways as respects all other city streets or private ways.

The governing authorities of incorporated cities and towns may designate any street as an arterial having preference over the traffic on a state highway if the change is first approved in writing by the state department of transportation. The local authorities making such a change in arterial designation shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained standard stop signs, or "Yield" signs, to accomplish this change in arterial designation.

The operator of any vehicle entering upon any arterial highway from any other public highway or private way

shall come to a complete stop before entering the arterial highway when stop signs are erected as provided by law. [1984 c 7 § 66; 1963 ex.s. c 3 § 48; 1961 c 12 § 46.60.330. Prior: 1955 c 146 § 5; 1947 c 200 § 14; 1937 c 189 § 105; Rem. Supp. 1947 § 6360-105. Formerly RCW 46.60.330.]

Severability—1984 c 7: See note following RCW 47.01.141.

City streets subject to increased speed, designation as arterials: RCW 46.61.435.

46.61.200 Stop intersections other than arterial may be designated. In addition to the points of intersection of any public highway with any arterial public highway that is constituted by law or by any proper authorities of this state or any city or town of this state, the state department of transportation with respect to state highways, and the proper authorities with respect to any other public highways, have the power to determine and designate any particular intersection, or any particular highways, roads, or streets or portions thereof, at any intersection with which vehicles shall be required to stop before entering such intersection. Upon the determination and designation of such points at which vehicles will be required to come to a stop before entering the intersection, the proper authorities so determining and designating shall cause to be posted and maintained proper signs of the standard design adopted by the state department of transportation indicating that the intersection has been so determined and designated and that vehicles entering it are required to stop. It is unlawful for any person operating any vehicle when entering any intersection determined, designated, and bearing the required sign to fail and neglect to bring the vehicle to a complete stop before entering the intersection. [1984 c 7 § 67; 1961 c 12 § 46.60.340. Prior: 1937 c 189 § 106; RRS § 6360-106; 1927 c 284 § 1; RRS § 6362-41a. Formerly RCW 46.60.340.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.61.290 Required position and method of turning at intersections. The driver of a vehicle intending to turn shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

(3) Two-way left turn lanes.

(a) The department of transportation and local authorities in their respective jurisdictions may designate a two-way left turn lane on a roadway. A two-way left turn lane is near the center of the roadway set aside for use by vehicles making left turns in either direction from or into the roadway.

(b) Two-way left turn lanes shall be designated by distinctive uniform roadway markings. The department of transportation shall determine and prescribe standards and specifications governing type, length, width, and positioning of the distinctive permanent markings. The standards and specifications developed shall be filed with the code reviser in accordance with the procedures set forth in the administrative procedure act, chapter 34.04 RCW. On and after July 1, 1971, permanent markings designating a two-way left turn lane shall conform to such standards and specifications.

(c) Upon a roadway where a center lane has been provided by distinctive pavement markings for the use of vehicles turning left from either direction, no vehicles may turn left from any other lane. A vehicle shall not be driven in this center lane for the purpose of overtaking or passing another vehicle proceeding in the same direction. A signal, either electric or manual, for indicating a left turn movement, shall be made at least one hundred feet before the actual left turn movement is made.

(4) The department of transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles, and when the devices are so placed no driver of a vehicle may turn a vehicle other than as directed and required by the devices. [1984 c 12 § 1; 1984 c 7 § 68; 1975 c 62 § 28; 1969 ex.s. c 281 § 61; 1965 ex.s. c 155 § 40.]

Reviser's note: This section was amended by 1984 c 12 § 1 and by 1984 c 7 § 68, 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).

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1975 c 62: See note following RCW 36.75.010.

46.61.345 All vehicles must stop at certain railroad grade crossings. The state department of transportation and local authorities within their respective jurisdictions are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only upon exercising due care. [1984 c 7 § 69; 1965 ex.s. c 155 § 47.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.61.380 Rules for design, marking, and mode of operating school buses. The state superintendent of public instruction, by and with the advice of the state department of transportation and the chief of the Washington state patrol, shall adopt and enforce rules not inconsistent with the law of this state to govern the design, marking, and mode of operation of all school buses owned and operated by any school district or privately owned and operated under contract or otherwise with any school district in this state for the transportation of school children. Those rules shall by reference be made a part of any such contract or other agreement

with the school district. Every school district, its officers and employees, and every person employed under contract or otherwise by a school district is subject to such rules. It is unlawful for any officer or employee of any school district or for any person operating any school bus under contract with any school district to violate any of the provisions of such rules. [1984 c 7 § 70; 1961 c 12 § 46.48.150. Prior: 1937 c 189 § 131; RRS § 6360-131. Formerly RCW 46.48.150.]

Severability—1984 c 7: See note following RCW 47.01.141.
Design and markings of school buses: RCW 46.37.190.

46.61.428 Slow-moving vehicle permitted to drive on improved shoulders, when. (1) The state department of transportation and local authorities are authorized to determine those portions of any two-lane highways under their respective jurisdictions on which drivers of slow-moving vehicles may safely drive onto improved shoulders for the purpose of allowing overtaking vehicles to pass and may by appropriate signs indicate the beginning and end of such zones.

(2) Where signs are in place to define a driving-on-shoulder zone as set forth in subsection (1) of this section, the driver of a slow-moving vehicle may drive onto and along the shoulder within the zone but only for the purpose of allowing overtaking vehicles to pass and then shall return to the roadway.

(3) Signs erected to define a driving-on-shoulder zone take precedence over pavement markings for the purpose of allowing the movements described in subsection (2) of this section. [1984 c 7 § 71; 1977 ex.s. c 39 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

46.61.515 Driving or being in physical control of motor vehicle while under the influence of intoxicating liquor or drugs—Penalties—Alcohol or drug problem, treatment—Suspension or revocation of license—Appeal. (Effective July 1, 1985.) (1) Every person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished by imprisonment for not less than twenty-four consecutive hours nor more than one year, and by a fine of not more than seven hundred fifty dollars. Twenty-four consecutive hours of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. The court may impose conditions of probation that may include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The convicted person shall, in addition, be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services, as determined by the court. A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social

and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the convicted person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services. Standards for approval for alcohol treatment programs shall be prescribed by rule under the administrative procedure act, chapter 34.04 RCW. The courts shall periodically review the costs of alcohol information schools and treatment programs within their jurisdictions.

(2) On a second or subsequent conviction for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs within a five-year period a person shall be punished by imprisonment for not less than seven days nor more than one year and by a fine of not more than one thousand five hundred dollars. District courts and courts organized under chapter 35.20 RCW are authorized to impose such fine. The jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. Whenever the mandatory jail sentence is suspended or deferred, the judge must state, in writing, the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. If, at the time of a second or subsequent conviction, the driver is without a license or permit because of a previous suspension or revocation, the minimum mandatory sentence shall be ninety days in jail and a two hundred dollar fine. The penalty so imposed shall not be suspended or deferred. The person shall, in addition, be required to complete a diagnostic evaluation by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. The report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem requiring treatment, the person shall complete treatment at an approved alcoholism treatment facility or approved drug treatment center.

In addition to any nonsuspendable and nondeferrable jail sentence required by this subsection, the court shall sentence a person to a term of imprisonment not exceeding one hundred eighty days and shall suspend but shall not defer the sentence for a period not exceeding two years. The suspension of the sentence may be conditioned upon nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of suspension during the suspension period.

(3) The license or permit to drive or any nonresident privilege of any person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs shall:

(a) On the first conviction under either offense, be suspended by the department until the person reaches age nineteen or for ninety days, whichever is longer. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified;

(b) On a second conviction under either offense within a five-year period, be revoked by the department for one year. The department of licensing shall determine the person's eligibility for licensing based upon the reports provided by the designated alcoholism agency or probation department and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified;

(c) On a third or subsequent conviction of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, vehicular homicide, or vehicular assault, or any combination thereof within a five-year period, be revoked by the department for two years.

(4) In any case provided for in this section, where a driver's license is to be revoked or suspended, the revocation or suspension shall be stayed and shall not take effect until after the determination of any appeal from the conviction which may lawfully be taken, but in case the conviction is sustained on appeal the revocation or suspension takes effect as of the date that the conviction becomes effective for other purposes. [1984 c 258 § 328; 1983 c 165 § 21; 1983 c 150 § 1; 1982 1st ex.s. c 47 § 27; 1979 ex.s. c 176 § 6; 1977 ex.s. c 3 § 3; 1975 1st ex.s. c 287 § 2; 1974 ex.s. c 130 § 1; 1971 ex.s. c 284 § 1; 1967 c 32 § 68; 1965 ex.s. c 155 § 62.]

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.

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Severability—1979 ex.s. c 176: See note following RCW 46.61.502.

Severability—1971 ex.s. c 284: See note following RCW 46.65.010.

Cities and towns, penalties for driving while intoxicated: RCW 35.21.165.

Counties, penalties for driving while intoxicated: RCW 36.32.127.

Highway safety fund: RCW 46.68.060.

Revocation of license for driving under the influence of intoxicating liquor or drugs

administrative revocations: RCW 46.20.600 through 46.20.700.

mandatory revocations: RCW 46.20.285.

46.61.518 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.61.519 Alcoholic beverages—Drinking or open container in vehicle on highway—Exceptions. (1) It is a traffic infraction to drink any alcoholic beverage in a motor vehicle when the vehicle is upon a highway.

(2) It is a traffic infraction for a person to have in his possession while in a motor vehicle upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage if the container has been opened or a seal broken or the contents partially removed.

(3) It is a traffic infraction for the registered owner of a motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle when the vehicle is upon a highway, a bottle, can, or other receptacle containing an alcoholic beverage which has been opened or a seal broken or the contents partially removed, unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied by the driver or passengers if the vehicle does not have a trunk. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers.

(4) This section does not apply to a public conveyance that has been commercially chartered for group use or to the living quarters of a motor home or camper or, except as otherwise provided by RCW 66.44.250 or local law, to any passenger for compensation in a for-hire vehicle licensed under city, county, or state law, or to a privately-owned vehicle operated by a person possessing a valid operator's license with a special endorsement issued under RCW 46.20.440 in the course of his usual employment transporting passengers at the employer's direction: *Provided*, That nothing in this subsection shall be construed to authorize possession or consumption of an alcoholic beverage by the operator of any vehicle while upon a highway. [1984 c 274 § 1; 1983 c 165 § 28.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

46.61.5191 Local ordinances not prohibited. Nothing in RCW 46.61.519 or RCW 46.61.5191 prohibits any city or town from enacting a local ordinance that proscribes the acts proscribed by those sections and that provides penalties equal to or greater than the penalties provided in those sections. [1984 c 274 § 2.]

46.61.5195 Disguising alcoholic beverage container.

(1) It is a traffic infraction to incorrectly label the original container of an alcoholic beverage and to then violate RCW 46.61.519.

(2) It is a traffic infraction to place an alcoholic beverage in a container specifically labeled by the manufacturer of the container as containing a nonalcoholic beverage and to then violate RCW 46.61.519. [1984 c 274 § 3.]

46.61.560 Stopping, standing, or parking outside business or residence districts. (1) Outside of incorporated cities and towns no person may stop, park, or leave standing any vehicle, whether attended or unattended, upon the roadway.

(2) Subsection (1) of this section and RCW 46.61.570 and 46.61.575 do not apply to the driver of any vehicle that is disabled in such manner and to such extent that

it is impossible to avoid stopping and temporarily leaving the vehicle in such position. The driver shall nonetheless arrange for the prompt removal of the vehicle as required by RCW 46.61.590.

(3) Subsection (1) of this section does not apply to the driver of a public transit vehicle who temporarily stops the vehicle upon the roadway for the purpose of and while actually engaged in receiving or discharging passengers at a marked transit vehicle stop zone approved by the state department of transportation or a county upon highways under their respective jurisdictions. [1984 c 7 § 72; 1979 ex.s. c 178 § 20; 1977 c 24 § 2; 1965 ex.s. c 155 § 64.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1979 ex.s. c 178: See note following RCW 46.61.590.

Unattended motor vehicles: RCW 46.61.600.

46.61.565 Officers authorized to remove certain vehicles. Any police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever any police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer is hereby authorized to provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway.

(2) Whenever any police officer finds a vehicle unattended upon any highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety.

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of any vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to decide upon steps to be taken to protect his or her property.

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property.

(5) Whenever a police officer discovers a vehicle which he determines to be a stolen vehicle.

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property.

(7) Nothing in this section shall derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered disposer as defined in RCW 46.52.102. [1984 c 154 § 3; 1979 ex.s. c 178 § 21; 1977 ex.s. c 167 § 4; 1965 ex.s. c 155 § 65.]

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

Severability—1979 ex.s. c 178: See note following RCW 46.61.590.

46.61.580 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.61.581 Indication of parking space for disabled persons. A parking space or stall for a physically disabled person shall be indicated by:

(1) A painted white line, at least six inches in width on the improved surface delineating the perimeter of the parking space or stall; and

(2) A vertical sign, between forty-eight and sixty inches off the ground, with the international symbol of access described under RCW 70.92.120 and the notice "State disabled parking permit required."

This section shall not apply to vertical signs in use on June 7, 1984, except that within two years of this date each vertical sign must display the notice "State disabled parking permit required." [1984 c 154 § 4.]

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.61.582 Free parking by disabled persons. Any person who meets the criteria for special parking privileges under RCW 46.16.381 shall be allowed free of charge to park a vehicle being used to transport that person for unlimited periods of time in parking zones or areas including zones or areas with parking meters which are otherwise restricted as to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. The person shall obtain and display a special card, decal, or license plate under RCW 46.16.381 to be eligible for the privileges under this section. [1984 c 154 § 5.]

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.61.583 Special plate, card, or decal issued by another jurisdiction. A special license plate, card, or decal issued by another state or country that indicates an occupant of the vehicle is disabled, entitles the vehicle on or in which it is displayed and being used to transport the disabled person to the same overtime parking privileges granted under this chapter to a vehicle with a similar special license plate, card, or decal issued by this state. [1984 c 51 § 2.]

46.61.587 Winter recreational parking areas—Penalty. (Effective July 1, 1985.) Any violation of RCW 43.51.320 or 46.61.585 or any rule promulgated by the parks and recreation commission to enforce the provisions thereof shall be punished by a fine of not more than twenty-five dollars. [1984 c 258 § 329; 1977 c 57 § 1; 1975 1st ex.s. c 209 § 6.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

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.

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

Chapter 46.63

DISPOSITION OF TRAFFIC INFRACTIONS

Sections	
46.63.040	Jurisdiction of courts—Jurisdiction of boards of regents and trustees of the state and regional universities and The Evergreen State College.
46.63.060	Notice of traffic infraction—Determination final unless contested—Form.
46.63.070	Response to notice of traffic infraction—Contesting determination—Hearing—Failure to respond or appear.
46.63.110	Monetary penalties. (Effective July 1, 1985.)

46.63.040 Jurisdiction of courts—Jurisdiction of boards of regents and trustees of the state and regional universities and The Evergreen State College. (1) All violations of state law, local law, ordinance, regulation, or resolution designated as traffic infractions in RCW 46.63.020 may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine traffic infractions pursuant to this chapter.

(3) Any city or town with a municipal court may contract with the county to have traffic infractions committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine traffic infractions pursuant to this chapter.

(5) The boards of regents of the state universities, and the boards of trustees of the regional universities and of The Evergreen State College have the authority to hear and determine traffic infractions under RCW 28B.10.560. [1984 c 258 § 137; 1983 c 221 § 2; 1979 ex.s. c 136 § 6.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.060 Notice of traffic infraction—Determination final unless contested—Form. (1) A notice of traffic infraction represents a determination that an infraction has been committed. The determination will be final unless contested as provided in this chapter.

(2) The form for the notice of traffic infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a traffic infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial; that the penalty for a traffic infraction related to

standing, stopping, or parking may include nonrenewal of the vehicle license;

(c) A statement of the specific traffic infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the traffic 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 any 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 officer who issued the notice of infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person will be deemed to have committed the infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days or the person's driver's license will not be renewed by the department until any penalties imposed pursuant to this chapter have been satisfied;

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the refusal of the department to renew the person's driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, until any penalties imposed pursuant to this chapter have been satisfied;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(k) 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. [1984 c 224 § 2; 1982 1st ex.s. c 14 § 2; 1980 c 128 § 1; 1979 ex.s. c 136 § 8.]

Severability—Effective date—1984 c 224: See notes following RCW 46.16.216.

Effective date—1982 1st ex.s. c 14: "This act shall take effect on July 1, 1984, and shall apply to violations of traffic laws committed on or after July 1, 1984." [1982 1st ex.s. c 14 § 7.]

Severability—1982 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." [1982 1st ex.s. c 14 § 6.]

Effective date—1980 c 128: "Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of 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." [1980 c 128 § 18.]

Severability—1980 c 128: "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 128 § 17.]

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.070 Response to notice of traffic infraction—Contesting determination—Hearing—Failure to respond or appear. (1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) (a) If any person issued a notice of traffic infraction:

(i) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(ii) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section; the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

(b) The department may not renew the driver's license, or in the case of a standing, stopping, or parking violation the vehicle license, of any person for whom the court has entered an order pursuant to (a) of this subsection until any penalties imposed pursuant to this chapter have been satisfied. For purposes of driver's license nonrenewal only, the lessee of a vehicle shall be considered to be the person to whom a notice of a standing, stopping, or parking violation has been issued for such violations of the vehicle incurred while the vehicle was leased or rented under a bona fide commercial lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not

the vehicle's registered owner, if the lease agreement contains a provision prohibiting anyone other than the lessee from operating the vehicle. Such a lessor shall, upon the request of the municipality issuing the notice of infraction, supply the municipality with the name and driver's license number of the person leasing the vehicle at the time of the infraction. [1984 c 224 § 3; 1982 1st ex.s. c 14 § 3; 1980 c 128 § 2; 1979 ex.s. c 136 § 9.]

Severability—Effective date—1984 c 224: See notes following RCW 46.16.216.

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

46.63.110 Monetary penalties. (Effective July 1, 1985.) (1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid. [1984 c 258 § 330. Prior: 1982 1st ex.s. c 14 § 4; 1982 1st ex.s. c 12 § 1; 1982 c 10 § 13; prior: 1981 c 330 § 7; 1981 c 19 § 6; 1980 c 128 § 4; 1979 ex.s. c 136 § 13.]

Rules of court: Monetary penalty schedule—JTIR 6.2.

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.

Effective date—Severability—1982 1st ex.s. c 14: See notes following RCW 46.63.060.

Severability—1982 c 10: See note following RCW 6.12.100.

Severability—1981 c 330: See note following RCW 3.62.060.

Severability—1981 c 19: See note following RCW 46.63.020.

Effective date—Severability—1980 c 128: See notes following RCW 46.63.060.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 46.68

DISPOSITION OF REVENUE

Sections

46.68.050	Repealed. (Effective July 1, 1985.)
46.68.100	Allocation of net tax amount in motor vehicle fund.
46.68.150	Construction and improvement of state highways in urban areas—Expenditure of motor vehicle fuel taxes and bond proceeds.

46.68.050 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.68.100 Allocation of net tax amount in motor vehicle fund. From the net tax amount in the motor vehicle fund there shall be paid monthly as funds accrue the following sums:

(1) To the cities and towns, to be distributed as provided by RCW 46.68.110, sums equal to six and ninety-two hundredths percent of the net tax amount;

(2) To the cities and towns, to be expended as provided by RCW 46.68.115, sums equal to four and sixty-one hundredths percent of the net tax amount;

(3) To the counties, sums equal to twenty-two and seventy-eight hundredths percent of the net tax amount out of which there shall be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725, with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(4) To the urban arterial trust account in the motor vehicle fund, sums equal to seven and twelve hundredths percent of the net tax amount;

(5) To the state, to be expended as provided by RCW 46.68.130, sums equal to forty-five and twenty-six hundredths percent of the net tax amount;

(6) To the state, to be expended as provided by RCW 46.68.150 as now or hereafter amended, sums equal to six and ninety-five hundredths percent of the net tax amount;

(7) To the Puget Sound reserve account in the motor vehicle fund sums equal to three and twenty-one hundredths percent of the net tax amount;

(8) To the Puget Sound ferry operations account in the motor vehicle fund sums equal to three and fifteen hundredths percent of the net tax amount.

Nothing in this section or in RCW 46.68.090 or 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond

issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor and special vehicle fuels. [1984 c 7 § 73; 1977 ex.s. c 317 § 9; 1977 c 51 § 1; 1975-'76 2nd ex.s. c 57 § 1; 1973 1st ex.s. c 124 § 1; 1972 ex.s. c 24 § 2; 1970 ex.s. c 85 § 4; 1967 ex.s. c 145 § 79; 1967 ex.s. c 83 § 8; 1961 ex.s. c 7 § 6; 1961 c 12 § 46.68.100. Prior: 1959 ex.s. c 4 § 1; 1957 c 271 § 3; 1957 c 175 § 10; 1943 c 83 § 1; 1939 c 181 § 3; Rem. Supp. 1943 § 6600-1e; 1937 c 208 §§ 2, part, 3, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1977 ex.s. c 317: See notes following RCW 82.36.010.

Effective date—1977 c 51: "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 on July 1, 1977." [1977 c 51 § 4.]

Severability—1977 c 51: "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 c 51 § 3.]

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

Severability—**Effective dates**—1967 ex.s. c 83: See RCW 47-26.900 and 47.26.910.

46.68.150 Construction and improvement of state highways in urban areas—Expenditure of motor vehicle fuel taxes and bond proceeds. The sums distributed to the state pursuant to RCW 46.68.100(6) and the proceeds of bonds issued and sold pursuant to RCW 47.26-.400 through 47.26.407 shall be expended by the state department of transportation for construction and improvement of state highways in urban areas as provided for in RCW 47.26.040 through 47.26.070 or for payment of principal and interest on bonds issued pursuant to RCW 47.26.400 through 47.26.407. At the end of each fiscal quarter the state treasurer shall determine the amount, if any, that the sums distributed to the state pursuant to RCW 46.68.100(6) as now or hereafter amended exceed an amount equivalent to the proceeds of five-eighths of one cent motor vehicle and special fuel excise tax collected on the net gallonage after the deductions provided for in RCW 82.36.020 for the preceding fiscal quarter. The amount so ascertained shall be available first to repay the counties, cities, and towns for any moneys derived from excise taxes on motor vehicle and special fuels distributable to the counties, cities, and towns pursuant to RCW 46.68.100 but as a result of the pledge and debt service payment provisions contained in RCW 47.26.404 and 47.26.405 and as certified by the state finance committee have been used to repay state urban bonds (and interest thereon) authorized by RCW 47.26.400 through 47.26.407, and after such sums have been repaid in full, then for expenditure as provided in RCW 46.68.130. [1984 c 7 § 74; 1977 ex.s. c 317 § 11; 1967 ex.s. c 83 § 9.]

Reviser's note: The reference to "sections 37 through 44 of this 1967 amendatory act" has been translated to "RCW 47.26.400 through 47-26.407." A literal translation of the phrase would have been "RCW 47.26.401 through 47.26.410," which appears to be erroneous. The error appears to have occurred in failure to change this internal reference in accordance with the renumbering of sections brought about by

removal of section 34 from Engrossed House Bill No. 595 by floor amendment.

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1977 ex.s. c 317: See notes following RCW 82.36.010.

Severability—**Effective dates**—1967 ex.s. c 83: See RCW 47-26.900, 47.26.910.

Chapter 46.81

TRAFFIC SAFETY EDUCATION COURSES

Sections

46.81.030 through 46.81.060 Repealed. (Effective July 1, 1985.)

46.81.070 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit. (Effective July 1, 1985.)

46.81.030 through 46.81.060 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

46.81.070 Fiscal support—Reimbursement to school districts—Enrollment fees—Deposit. (Effective July 1, 1985.) (1) Each school district shall be reimbursed from funds appropriated for traffic safety education: *Provided*, That the state superintendent shall determine the per pupil reimbursement amount for the traffic safety education course to be funded by the state. Each school district offering an approved standard traffic safety education course shall be reimbursed or granted an amount up to the level established by the superintendent of public instruction as may be appropriated.

(2) The board of directors of any school district or combination of school districts may establish a traffic safety education fee, which fee when imposed shall be required to be paid by any duly enrolled student in any such school district prior to or while enrolled in a traffic safety education course. Traffic safety education fees collected by a school district shall be deposited with the county treasurer to the credit of such school district, to be used to pay costs of the traffic safety education course. [1984 c 258 § 331; 1977 c 76 § 4; 1969 ex.s. c 218 § 6; 1967 ex.s. c 147 § 5; 1963 c 39 § 8.]

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.

Severability—1977 c 76: See note following RCW 46.81.005.

Traffic safety commission: Chapter 43.59 RCW.

Chapter 46.82

DRIVER TRAINING SCHOOLS

Sections

46.82.300 Driver instructors' advisory committee—Composition, reimbursement for travel expenses, meetings, duties. (Effective July 1, 1985.)

46.82.300 Driver instructors' advisory committee—Composition, reimbursement for travel expenses, meetings, duties. (Effective July 1, 1985.) (1) The director shall be assisted in the duties and responsibilities

of this chapter by the driver instructors' advisory committee, consisting of five members. Members of the advisory committee shall be appointed by the director for two-year terms and shall consist of a representative of the driver training schools, a representative of the driving instructors (who shall not be from the same school as the school member), a representative of the superintendent of public instruction, a representative of the department of licensing, and a representative from the Washington state traffic safety commission. Members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. A member who is receiving a salary from the state shall not receive compensation other than travel expenses incurred in such service.

(2) The advisory committee shall meet at least semi-annually and shall have additional meetings as may be called by the director. The director or the director's representative shall attend all meetings of the advisory committee and shall serve as chairman.

(3) Duties of the advisory committee shall be to:

(a) Advise and confer with the director or the director's representative on matters pertaining to the establishment of rules necessary to carry out this chapter;

(b) Review violations of this chapter and to recommend to the director appropriate enforcement or disciplinary action as provided in this chapter;

(c) Review and update when necessary a curriculum consisting of a list of items of knowledge and the processes of driving a motor vehicle specifying the minimum requirements adjudged necessary in teaching a proper and adequate course of driver education; and

(d) Prepare the examination for a driver instructor's certificate and review examination results at least once each calendar year for the purpose of updating and revising examination standards. [1984 c 287 § 93; 1979 ex.s. c 51 § 3.]

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

**Chapter 46.83
TRAFFIC SCHOOLS**

Sections
46.83.050 Court may order attendance.

46.83.050 Court may order attendance. Every municipal court, district court, juvenile court, superior court, and every other court handling traffic cases within the limits of a county wherein a traffic school has been established may, as a part of any sentence imposed following a conviction for any traffic law violation, or as a condition on the suspension of sentence or deferral of any imposition of sentence, order any person so convicted, whether that person be a juvenile, a minor, or an adult, to attend the traffic school for a number of days to be determined by the court, but not to exceed the maximum number of days which the violator could be required to serve in the city or county jail as a result of

his or her conviction. [1984 c 258 § 138; 1961 c 12 § 46.83.050. Prior: 1959 c 182 § 5.]

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

Application—1984 c 258 §§ 101–139: See note following RCW 3.50.005.

**Chapter 46.90
WASHINGTON MODEL TRAFFIC ORDINANCE**

Sections
46.90.300 Certain RCW sections adopted by reference.
46.90.427 Certain RCW sections adopted by reference.
46.90.463 Certain RCW sections adopted by reference.
46.90.481 Certain RCW sections adopted by reference.
46.90.900 Certain RCW sections adopted by reference.

46.90.300 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.260, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.16.010, 46.16.025, 46.16.030, 46.16.135, 46.16.140, 46.16.145, 46.16.170, 46.16.180, 46.16.240, 46.16.260, 46.16.290, 46.16.381, 46.16.500, 46.16.505, 46.20.011, 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.393, 46.20.394, 46.20.410, 46.20.420, 46.20.430, 46.20.435, 46.20.440, 46.20.500, 46.20.510, 46.20.550, 46.29.605, 46.32.060, 46.32.070, 46.37.010, 46.37.020, 46.37.030, 46.37.040, 46.37.050, 46.37.060, 46.37.070, 46.37.080, 46.37.090, 46.37.100, 46.37.110, 46.37.120, 46.37.130, 46.37.140, 46.37.150, 46.37.160, 46.37.170, 46.37.180, 46.37.184, 46.37.185, 46.37.186, 46.37.187, 46.37.188, 46.37.190, 46.37.196, 46.37.200, 46.37.210, 46.37.215, 46.37.220, 46.37.230, 46.37.240, 46.37.260, 46.37.270, 46.37.280, 46.37.290, 46.37.300, 46.37.310, 46.37.340, 46.37.351, 46.37.360, 46.37.365, 46.37.369, 46.37.375, 46.37.380, 46.37.390, 46.37.400, 46.37.410, 46.37.420, 46.37.425, 46.37.430, 46.37.440, 46.37.450, 46.37.460, 46.37.465, 46.37.467, 46.37.480, 46.37.490, 46.37.500, 46.37.510, 46.37.513, 46.37.517, 46.37.520, 46.37.522, 46.37.523, 46.37.524, 46.37.525, 46.37.527, 46.37.528, 46.37.529, 46.37.530, 46.37.535, 46.37.537, 46.37.539, 46.37.540, 46.37.550, 46.37.560, 46.37.570, 46.37.590, 46.37.600, 46.37.610, 46.44.010, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.100, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, 46.44.180, 46.48.170, 46.52.010, 46.52.020, 46.52.030, 46.52.040, 46.52.070, 46.52.080, 46.52.088, 46.52.090, 46.52.100, 46.52.104, 46.52.106, 46.52.108, 46.52.111, 46.52.112, 46.52.113, 46.52.114, 46.52.116, 46.52.117, 46.52.118, 46.52.119, 46.52.1192, 46.52.1194, 46.52.1195, 46.52.1196, 46.52.1198, 46.52.145, 46.52.150, 46.52.160, 46.52.170, 46.52.180, 46.52.190, 46.52.200, 46.52.210,

46.65.090, 46.79.120, and 46.80.010. [1984 c 154 § 6; 1984 c 108 § 1; 1983 c 30 § 2; 1982 c 25 § 1; 1980 c 65 § 2; 1977 ex.s. c 60 § 1; 1975 1st ex.s. c 54 § 50.]

Reviser's note: This section was amended by 1984 c 108 § 1 and by 1984 c 154 § 6, 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).

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.90.427 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.300, 46.61.305, 46.61.310, 46.61.315, 46.61.340, 46.61.345, 46.61.350, 46.61.355, 46.61.365, 46.61.370, 46.61.375, 46.61.385, 46.61.400, 46.61.415, 46.61.425, 46.61.427, 46.61.428, 46.61.435, 46.61.440, 46.61.445, 46.61.450, 46.61.455, 46.61.460, 46.61.465, 46.61.470, 46.61.475, 46.61.500, 46.61.502, 46.61.504, 46.61.506, 46.61.515, 46.61.519, 46.61.525, 46.61.530, 46.61.535, 46.61.540, 46.61.560, 46.61.565, 46.61.570, and 46.61.575. [1984 c 108 § 2; 1982 c 25 § 2; 1980 c 65 § 4; 1977 ex.s. c 60 § 4; 1975 1st ex.s. c 54 § 71.]

46.90.463 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.582, 46.61.590, 46.61.600, 46.61.605, 46.61.606, 46.61.608, 46.61.610, 46.61.611, 46.61.612, 46.61.614, 46.61.615, 46.61.620, 46.61.625, 46.61.630, 46.61.635, 46.61.640, 46.61.645, 46.61.655, 46.61.660, 46.61.665, 46.61.670, 46.61.675, 46.61.680, 46.61.685, 46.61.687, and 46.61.690. [1984 c 154 § 7; 1984 c 108 § 3; 1980 c 65 § 5; 1977 ex.s. c 60 § 5; 1975 1st ex.s. c 54 § 83.]

Reviser's note: This section was amended by 1984 c 108 § 3 and by 1984 c 154 § 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).

Intent—Application—Severability—1984 c 154: See notes following RCW 46.16.381.

46.90.481 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.700, 46.61.710, 46.61.720, 46.61.730, 46.61.750, 46.61.755, 46.61.760, 46.61.765, 46.61.770, 46.61.775, and 46.61.780. [1984 c 108 § 4; 1980 c 65 § 6; 1975 1st ex.s. c 54 § 89.]

46.90.900 Certain RCW sections adopted by reference. The following sections of the Revised Code of Washington as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.98.020, 46.98.030, 46.98.040, 47.36.060,

47.36.110, 47.36.180, 47.36.200, 47.36.220, 47.52.010, 47.52.011, 47.52.040, 47.52.110, 47.52.120, 66.44.240, 66.44.250, 70.84.020, 70.84.040, and 70.93.060. [1984 c 108 § 5; 1975 1st ex.s. c 54 § 116.]

Title 47

PUBLIC HIGHWAYS AND TRANSPORTATION

Chapters

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- 47.02** Department buildings.
- 47.04** General provisions.
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Chapter 47.01

DEPARTMENT OF TRANSPORTATION

Sections

- 47.01.061 Commission—Procedure—Budget proposal—Compensation of members. (Effective July 1, 1985.)
- 47.01.081 Department—Organization—Assistant and deputy secretaries, management positions—Appointment, exempt from civil service, salaries.
- 47.01.141 Annual report to legislature and governor.
- 47.01.145 Study reports available to legislators upon request.
- 47.01.170 Right of entry.
- 47.01.180 Roads and bridges in state parks.
- 47.01.190 State aid engineer.

- 47.01.210 Contract without bid or bond with public utilities and municipal corporations.
 47.01.220 Report to legislature on highway needs.
 47.01.240 Coordination of long-range needs studies.

47.01.061 Commission—Procedure—Budget proposal—Compensation of members. (Effective July 1, 1985.) The commission shall meet at such times as it deems advisable but at least once every month. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary, and shall elect one of its members chairman for a term of one year. The chairman shall be able to vote on all matters before the commission.

The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department.

Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system. [1984 c 287 § 94; 1983 1st ex.s. c 53 § 29; 1981 c 59 § 1; 1977 ex.s. c 151 § 6.]

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

Severability—1983 1st ex.s. c 53: See note following RCW 47.10.802.

47.01.081 Department—Organization—Assistant and deputy secretaries, management positions—Appointment, exempt from civil service, salaries. (1) Initially the department shall be organized into divisions, including the division of highways, the division of public transportation, the division of aeronautics, the division of marine transportation, and the division of transportation planning and budget.

(2) The secretary may reorganize divisions in order to attain the maximum possible efficiency in the operation of the department. Each division shall be headed by an assistant secretary to be appointed by the secretary. The secretary may also appoint a deputy secretary as may be needed for the performance of the duties and functions vested in the department and may also appoint up to twelve ferry system management positions as defined in RCW 47.64.011. The secretary may delegate to officers within the several divisions of the department authority to employ personnel necessary to discharge the responsibilities of the department.

(3) The officers appointed under this section shall be exempt from the provisions of the state civil service law 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. [1984 c 48 § 1; 1977 ex.s. c 151 § 8.]

47.01.141 Annual report to legislature and governor. The department shall submit an annual report to the governor and legislature, including but not limited to operational and construction activities of the preceding fiscal year as the department deems important and recommendations for future operations of the department. [1984 c 7 § 75; 1977 c 75 § 68; 1973 2nd ex.s. c 12 § 1.]

Severability—1984 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." [1984 c 7 § 389.]

Commission's report to legislature on highway needs: RCW 47.01.220.

47.01.145 Study reports available to legislators upon request. Whenever a study report prepared by the department for the legislative transportation committee is made available to the committee or its members, the report shall, upon request, be made available to any member of the Washington state legislature. [1984 c 7 § 76; 1971 ex.s. c 195 § 6; 1967 ex.s. c 145 § 78.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

Budget, plan for highway development: Chapter 47.05 RCW.

47.01.170 Right of entry. The department or its duly authorized and acting assistants, agents, or appointees have the right to enter upon any land, real estate, or premises in this state, whether public or private, for purposes of making examinations, locations, surveys, and appraisals for highway purposes. The making of any such entry for those purposes does not constitute any trespass by the department or by its duly authorized and acting assistants, agents, or appointees. [1984 c 7 § 77; 1961 c 13 § 47.01.170. Prior: 1945 c 176 § 1; Rem. Supp. 1945 § 6400-3f. Formerly RCW 43.27.030.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.01.180 Roads and bridges in state parks. The department is authorized at the request of, and upon plans approved by the state parks and recreation commission, to construct and maintain vehicular roads, highways, and bridges within the limits of the several state parks. [1984 c 7 § 78; 1961 c 13 § 47.01.180. Prior: 1943 c 253 § 1; Rem. Supp. 1943 § 6402-35. Formerly RCW 43.27.040.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.01.190 State aid engineer. The secretary shall appoint, with the approval of the governor, a qualified assistant to be designated as "state aid engineer" whose duties shall consist of the administration of the program of state aid in the matter of county roads and city

streets. [1984 c 7 § 79; 1961 c 13 § 47.01.190. Prior: 1949 c 220 § 2; Rem. Supp. 1949 § 4600-3g. Formerly RCW 43.27.050.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.01.210 Contract without bid or bond with public utilities and municipal corporations. It is lawful for the department to contract without advertising or bid, or performance bond, with any public utility, whether publicly or privately operated, or with any municipal corporation or political subdivision of the state, for the performance of any work or the furnishing of any service of a type ordinarily performed or furnished by such utility, or by such municipal corporation or political subdivision, whenever, in the opinion of the department, the interest of the public will be best served. [1984 c 7 § 80; 1961 c 13 § 47.01.210. Prior: 1955 c 84 § 1; 1953 c 100 § 1. Formerly RCW 43.27.105.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.01.220 Report to legislature on highway needs. The department shall report to the legislature through the legislative transportation committee and senate and house transportation committees on the highway needs of the state. [1984 c 7 § 81; 1977 ex.s. c 235 § 13; 1973 2nd ex.s. c 12 § 3; 1961 c 13 § 47.01.220. Prior: 1957 c 172 § 30. Formerly RCW 43.27.192.]

Severability—1984 c 7: See note following RCW 47.01.141.

Report to legislature and governor: RCW 47.01.141.

47.01.240 Coordination of long-range needs studies. The department and the urban arterial board shall coordinate their activities relative to long-range needs studies, in accordance with the provisions of chapter 47.05 RCW and RCW 47.26.170, respectively, in order that long-range needs data may be developed and maintained on an integrated and and comparable basis. Needs data for county roads and city streets in nonurban areas shall be provided by the counties and cities to the department in such form and extent as requested by the department, after consultation with the county road administration board and the association of Washington cities, in order that needs data may be obtained on a comparable basis for all highways, roads, and streets in Washington. [1984 c 7 § 82; 1971 ex.s. c 195 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

Chapter 47.02

DEPARTMENT BUILDINGS

Sections

47.02.010	Buildings on east capitol site authorized—Financing.
47.02.080	Bonds—Designation of funds to repay bonds and interest.

47.02.010 Buildings on east capitol site authorized—Financing. The department is authorized in accordance with the provisions of this chapter and RCW

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79.24.500 through 79.24.600 to provide for the acquisition of land and the construction of buildings, laboratories, and facilities on the east capitol site for the use of the commission and the department and to finance payment thereof by bonds payable out of special funds from the proceeds of state excise taxes on motor vehicle fuels, or by gifts, bequests, or grants or by such additional funds as the legislature may provide. [1984 c 7 § 83; 1977 ex.s. c 235 § 14; 1965 ex.s. c 167 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.02.080 Bonds—Designation of funds to repay bonds and interest. Any funds required to repay such bonds, or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle fuels and which is, or may be appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1984 c 7 § 84; 1965 ex.s. c 167 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.04

GENERAL PROVISIONS

Sections

47.04.020	Classification of highways.
47.04.060	Administration of federal grants.
47.04.070	Conformity with federal requirements.
47.04.080	Joint action with other governments and agencies.
47.04.081	Urban public transportation systems—Participation in planning, development, and establishment.
47.04.100	Temporary route pending construction of new highway—Streets, roads not to be maintained as.
47.04.140	Counties obtaining federal aid for construction, reconstruction, etc., of ferry boats—Provisions applicable to ferry operations.

47.04.020 Classification of highways. All public highways in the state of Washington, or portions thereof, outside incorporated cities and towns shall be divided and classified as state highways and county roads. All state highways and branches thereof shall be established by the legislature of the state of Washington by appropriate general location and termini. Any prior distinctions between highways as primary or secondary are hereby abolished. All powers granted to, or duties imposed upon, the department with regard to either primary or secondary state highways shall be construed to relate to all state highways. Whenever these terms are used, either jointly or independently, each shall be construed to include all state highways. All public highways in the state of Washington, or portions thereof, outside incorporated cities and towns, not established as state highways, are hereby declared to be county roads. [1984 c 7 § 85; 1967 ex.s. c 145 § 41; 1963 c 24 § 3; 1961 c 13

§ 47.04.020. Prior: 1937 c 207 § 1; RRS § 6402-1; 1937 c 53 § 5; RRS § 6400-5; 1913 c 65 § 1; RRS § 6790.]

Severability—1984 c 7: See note following RCW 47.01.141.

Establishment of continuing system for designation of highways—
Signs: RCW 47.36.095.

47.04.060 Administration of federal grants. The department is authorized and directed to act for and on behalf of the state of Washington, and any political subdivision of the state, in all things pertaining to the selection, construction, and maintenance of highways and roads under the provisions of the act of congress approved July 11, 1916, and any and all acts amendatory thereto; and to enter into such agreement with the secretary of transportation or other duly authorized agent of the United States as may from time to time be desirable or necessary to secure the money or aid for any section of state highway, county road, or city or town street selected by law for construction or improvement through an appropriation for the period in which the construction or improvement is to be made. The money shall be added to and expended in connection with the appropriation aforesaid; and shall apply thereto, as may be required, cooperative expenditures from the motor vehicle fund, which may have been appropriated by the state legislature, and from any highway, road, or street fund of any political subdivision, and which are available for the construction and maintenance of any section of state highway, county road, or city or town street selected as aforesaid for such aid and improvement. [1984 c 7 § 86; 1961 c 13 § 47.04.060. Prior: 1937 c 53 § 47; RRS § 6400-47; 1917 c 76 § 5, part; RRS § 6848, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.04.070 Conformity with federal requirements. In all matters relating to the cooperative construction or improvement of any state highway, county road, or city or town street for which federal funds or aid is secured under any act of congress, the department shall act in the manner provided by state law relating to state highway construction from the motor vehicle fund, so far as the same may be consistent with the provisions of such act of congress and the rules and regulations made by the secretary of transportation or other authorized agent of the United States government pursuant to such act, to which the procedure shall be adapted by the department as may be necessary. [1984 c 7 § 87; 1961 c 13 § 47.04.070. Prior: 1937 c 53 § 44; RRS § 6400-44; 1917 c 76 § 5, part; RRS § 6848, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.04.080 Joint action with other governments and agencies. The department is empowered to join financially or otherwise with any other state or any county, city, or town of any other state, or with any foreign country, or any province or district of any foreign country, or with the federal government or any agency

thereof, or with any or all thereof, for the erecting, constructing, operating, or maintaining of any bridge, trestle, or any other structure, for the continuation or connection of any state highway across any stream, body of water, gulch, navigable water, swamp, or other topographical formation requiring any such structure and forming a boundary between the state of Washington and any other state or foreign country, and for the purchase or condemnation of right of way therefor. [1984 c 7 § 88; 1973 1st ex.s. c 151 § 11; 1961 c 13 § 47.04.080. Prior: 1937 c 53 § 47 1/2; RRS § 6400-47 1/2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.04.081 Urban public transportation systems—Participation in planning, development, and establishment. The department is empowered to join financially or otherwise with any public agency or any county, city, or town in the state of Washington or any other state, or with the federal government or any agency thereof, or with any or all thereof for the planning, development, and establishment of urban public transportation systems in conjunction with new or existing highway facilities. [1984 c 7 § 89; 1967 c 108 § 13; 1965 ex.s. c 170 § 63.]

Severability—1984 c 7: See note following RCW 47.01.141.

Urban public transportation system defined: RCW 47.04.082.

47.04.100 Temporary route pending construction of new highway—Streets, roads not to be maintained as. Unless otherwise provided, whenever by statute a new highway or extension is added to the state highway system, no existing city street or county road may be maintained or improved by the department as a temporary route of such new highway or extension pending the construction of the new highway or extension on the location adopted by the department. [1984 c 7 § 90; 1973 1st ex.s. c 151 § 12; 1965 ex.s. c 170 § 34.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.04.140 Counties obtaining federal aid for construction, reconstruction, etc., of ferry boats—Provisions applicable to ferry operations. Whenever a county that operates or proposes to operate ferries obtains federal aid for the construction, reconstruction, or modification of any ferry boat under Title 23, United States Code, the following provisions apply to the county's operation of its ferries:

(1) The county shall obtain from the department a franchise authorizing the ferry operations. The county's application for a franchise or amended franchise shall designate all ferry routes it proposes to operate. The department shall issue the franchise or amended franchise for the operation of each route that it finds is not otherwise served by adequate transportation facilities. A county may terminate any ferry route without approval of the department.

(2) At least thirty days before applying for federal aid for the construction, reconstruction, or modification of any of its ferries, and thereafter whenever new tolls or charges are proposed for use of its ferries, the county

shall file with the department for its approval, the current or proposed schedule of tolls and charges for use of its ferries. The department shall approve the schedule of tolls and charges unless it finds that the aggregate revenues to be derived from the county's ferry operations will exceed the amount required to pay the actual and necessary costs of operation, maintenance, and repair of the county's ferries.

(3) The department shall adopt rules for the implementation of this section including provisions affording the right to a hearing to any county before finally denying approval of any proposed ferry route or schedule of tolls and charges for use of the county's ferries. [1984 c 7 § 91; 1975-'76 2nd ex.s. c 65 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.08 HIGHWAY FUNDS

Sections

47.08.010	Control of allocated funds.
47.08.030	Repealed. (Effective July 1, 1985.)
47.08.040	Contracts with United States as to state highway property.
47.08.050	Contracts with United States as to state highway property—Governor to execute instrument to the United States.
47.08.070	Cooperation in public works projects, urban public transportation systems.
47.08.080	Funds when department is in charge of county road improvements.
47.08.090	Funds when department is in charge of city street improvements.
47.08.100	Illegal use of county or city road funds—Procedure to correct.
47.08.130	Custody of federal funds—Disbursement.

47.08.010 Control of allocated funds. Whenever there is provided an allocation for the construction or improvement of state highways, the allocation shall be under the sole charge and direct control of the department. [1984 c 7 § 92; 1961 c 13 § 47.08.010. Prior: 1937 c 53 § 32, part; RRS § 6400-32, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.030 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.08.040 Contracts with United States as to state highway property. Whenever it is necessary or desirable for the federal government or any agency thereof to acquire an interest in or in any way damage any property or interest therein owned by the state of Washington and used in connection with any highway in the state of Washington in connection with any federal project for the development of any river within or partially within the state of Washington, the department is authorized, empowered, and directed to negotiate and enter into an agreement with the proper agency of the federal government as to the rights which shall be acquired, the compensation which shall be made therefor and the character of instruments by which the rights shall be

conveyed, and as to any other matters which may be necessary in order to satisfy the requirements of the federal government. If the agreement is required to be reduced to writing, the writing shall be approved as to form by the attorney general of the state of Washington. [1984 c 7 § 93; 1961 c 13 § 47.08.040. Prior: 1937 c 113 § 1; RRS § 6450-91.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.050 Contracts with United States as to state highway property—Governor to execute instrument to the United States. Whenever the department has entered into an agreement under RCW 47.08.040 with the federal government or any agency thereof requiring the execution of any deed, flowage easement, or instrument of any nature, to the federal government or agency, and the instrument is approved as to form by the attorney general of the state of Washington, the governor of the state of Washington is authorized and directed without further authority and in the name of the state of Washington to execute and deliver to the proper agency of the federal government any such instrument or instruments which shall be, when attested by the secretary of state, binding upon the state of Washington. [1984 c 7 § 94; 1961 c 13 § 47.08.050. Prior: 1937 c 113 § 2; RRS § 6450-92.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.070 Cooperation in public works projects, urban public transportation systems. When it appears to the department that any state highway will be benefited or improved by the construction of any public works project, including any urban public transportation system, within the state of Washington by any of the departments of the state of Washington, by the federal government, or by any agency, instrumentality, or municipal corporation of either the state of Washington or the United States, the department is authorized to enter into cooperative agreements with any such state department, with the United States, or with any agency, instrumentality, or municipal corporation of either the state of Washington or the United States, wherein the state of Washington, acting through the department, will participate in the cost of the public works project in such amount as may be determined by the department to be the value of the benefits or improvements to the particular state highway derived from the construction of the public works project. Under any such agreement the department may contribute to the cost of the public works project by making direct payment to the particular state department, federal government, or to any agency, instrumentality, or municipal corporation of either the state or the United States, or any combination thereof, which may be involved in the project, from any funds appropriated to the department and available for highway purposes, or by doing a portion of the project either by day labor or by contract, or in any other manner as

may be deemed advisable and necessary by the department. [1984 c 7 § 95; 1967 c 108 § 3; 1961 c 13 § 47.08.070. Prior: 1945 c 127 § 2; Rem. Supp. 1945 § 6400–121.]

Severability—1984 c 7: See note following RCW 47.01.141.
Urban public transportation system defined: RCW 47.04.082.

47.08.080 Funds when department is in charge of county road improvements. If any funds become available from the federal government or otherwise for expenditure in conjunction with county funds for the construction, alteration, repair, or improvement of any county road and the work is to be performed by the department, the state treasurer shall, upon notice from the department, set aside from any moneys in the motor vehicle fund credited to any such county, the cost thereof, together with the cost of engineering, supervision, and other proper items, or so much of the money in the state treasury to the credit of the county as may be necessary for use in conjunction with funds from the federal government to accomplish the work. The work shall then be performed by the department and paid from the money so set aside upon vouchers approved and submitted by the department in the same manner as payment is made for such work on state highways: *Provided*, That the legislative authority of any such county shall have, by proper resolution, filed in duplicate in the office of the department and approved by it, determined the county road construction, alteration, repair, or improvement to be performed in such county and the same is found to conform in all respects to the requirements necessary for the use of such funds of the federal government. [1984 c 7 § 96; 1973 c 106 § 22; 1961 c 13 § 47.08.080. Prior: 1937 c 187 § 59; RRS § 6450–59.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.090 Funds when department is in charge of city street improvements. If any funds become available from the federal government or otherwise for expenditure in conjunction with funds accruing to any incorporated city or town for the construction, alteration, repair, or improvement of its city streets designated as forming a part of the route of any state highway through the incorporated city or town and the work is to be performed by the department, the state treasurer shall, upon notice from the department, set aside from any moneys in the motor vehicle fund credited to the incorporated city or town, the cost thereof or so much money in the state treasury to the credit of the incorporated city or town as may be necessary in conjunction with the funds from the federal government or otherwise to accomplish the work, the cost to be paid by the state treasurer from the money so set aside upon vouchers approved and submitted by the department in the same manner as payment is made for work on state highways. If any such incorporated city or town has agreed with the state of Washington or the federal government as a condition precedent to the acquiring of federal funds for construction on any city street of the incorporated city or town designated as forming a part of the route of any state highways, that

the street will be maintained to a standard and the incorporated city or town fails to so maintain the city street, then the department may perform the maintenance, and the state treasurer is authorized to deduct the cost thereof from any funds credited or to be credited to the incorporated city or town and pay the same on vouchers approved and submitted by the department in the same manner as payment is made for work performed on state highways. [1984 c 7 § 97; 1973 c 106 § 23; 1961 c 13 § 47.08.090. Prior: 1937 c 187 § 65; RRS § 6450–65.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.100 Illegal use of county or city road funds—Procedure to correct. The department is authorized from time to time to investigate expenditures from the county road fund and the city street fund; and if it determines that unauthorized, illegal, or wrongful expenditures are being or have been made from the fund it is authorized to proceed as follows: If the county road fund is involved it shall notify in writing the county legislative authority and the county treasurer of its determination; and if the city street fund is involved it shall notify the city council or commission and the mayor and city treasurer of the city or town of its determination. In its determination the department is authorized to demand of those officials that the wrongful or illegal expenditures shall be stopped, adjusted, or remedied and that restitution of any wrongful or illegal diversion or use shall be made; and it may notify the officials that if the wrong is not stopped, remedied, or adjusted, or restitution made to its satisfaction within a specified period fixed by it, it will direct the withholding of further payments to the county or city from the motor vehicle fund. The county or city shall have ten days after the notice is given within which to correct or remedy the wrong, or wrongful and illegal practices, to make restitution, or to adjust the matter to the satisfaction of the department.

If no correction, remedy, adjustment, or restitution is made within ten days to the satisfaction of the department, it has power to request in writing that the state treasurer withhold further payments from the motor vehicle fund to the county or city; and it is the duty of the state treasurer upon being so notified to withhold further payments from the motor vehicle fund to the county or city involved until the officials are notified in writing by the department that payments may be resumed.

The department is also authorized to notify in writing the prosecuting attorney of the county in which the violation occurs of the facts, and it is the duty of the prosecuting attorney to file charges and to criminally prosecute any and all persons guilty of any such violation. [1984 c 7 § 98; 1973 c 106 § 24; 1961 c 13 § 47.08.100. Prior: 1943 c 82 § 13, part; 1937 c 187 § 66, part; Rem. Supp. 1943 § 6450–66, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.08.130 Custody of federal funds—Disbursement. The state treasurer is hereby authorized and directed to receive and have custody of such funds and

warrants drawn by the secretary of transportation or other authorized agent of the United States as are made available for payment by the secretary of the treasury of the United States under the provisions of the federal aid road act approved July 11, 1916, and all acts amendatory or supplementary thereto, disbursing the same under such terms and conditions as may be prescribed by the secretary of transportation or by the secretary of the treasury or other authorized agent of the United States. The state treasurer is further authorized and directed to pay from the motor vehicle fund for the use of the department such funds as may be necessary upon any project in anticipation of reimbursement by the government of the United States. [1984 c 7 § 99; 1961 c 13 § 47.08.130. Prior: 1937 c 53 § 45; RRS § 6400-45; 1931 c 129 § 1; 1929 c 146 § 1; 1927 c 214 § 1; 1925 c 4 § 1; 1923 c 41 § 1; 1921 c 89 § 1; 1919 c 56 § 1; RRS § 6850.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.10

HIGHWAY CONSTRUCTION BONDS

Sections

47.10.070	Source of funds for payment of principal and interest.
47.10.110	Columbia Basin highway projects—Reimbursement by counties.
47.10.210	Additional bonds—Source of funds for payment of principal and interest.
47.10.340	Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest.
47.10.360	Construction in Grant, Franklin, Adams counties authorized—Reimbursement by counties.
47.10.470	Echo Lake route—Source of funds for payment of principal and interest.
47.10.716	Tacoma—Seattle—Everett facility—Source of funds for payment of principal and interest.
47.10.718	Tacoma—Seattle—Everett facility—Additional security for payment of bonds—Pledge of federal funds.
47.10.732	Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest.
47.10.734	Construction in Grant, Franklin, Adams counties authorized—Repayment to state by Grant, Franklin and Adams counties by retention of funds.
47.10.757	Additional funds—Source of funds for payment of bond principal and interest.
47.10.761	Reserve funds—Purposes.
47.10.767	Bonds—Designation of funds to repay bonds and interest.
47.10.768	Bonds—Pledge of federal aid funds.

47.10.070 Source of funds for payment of principal and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of all excise taxes on motor vehicle fuels and which is, or may be, appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and

available for state highway purposes proves insufficient to meet the requirements for bond retirement or the interest on any bonds: *Provided*, That money required hereunder to pay interest on or to retire any bonds issued for Columbia Basin county arterial highways or farm to market roads shall be repaid by any such county or counties wherein such highways or roads are constructed in the manner set forth in RCW 47.10.110. [1984 c 7 § 100; 1961 c 13 § 47.10.070. Prior: 1951 c 121 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.110 Columbia Basin highway projects—Reimbursement by counties. The secretary shall report separately to the state finance committee all sums expended from funds resulting from the sale of bonds for Columbia Basin county arterial highways and farm to market roads in Grant, Franklin, and Adams counties under the provisions of RCW 47.10.010 through 47.10.140. Those counties shall repay to the state all the cost of any Columbia Basin highway or road facilities actually constructed under the provisions of RCW 47.10.010 through 47.10.140 within each of such counties as follows: The state finance committee, at least one year prior to the date any interest is due and payable on such bonds or before the maturity date of any such bonds, shall ascertain the percentage of the motor vehicle funds arising from the excise taxes on motor vehicle fuels, which is to be transferred to such counties under the provisions of law which will be necessary to pay all of the interest upon or retire when due all of the portion of said bonds chargeable to expenditures incurred under the provisions of RCW 47.10.010 through 47.10.140 in each of said counties. The state finance committee shall notify the state treasurer of this estimate and the treasurer shall thereafter, when distributions are made from the motor vehicle fund to counties, retain such percentage of the total sums credited to such counties as aforesaid in the motor vehicle fund arising from the excise taxes on motor vehicle fuels until such fund is fully reimbursed for all expenditures under RCW 47.10.010 through 47.10.140 in Grant, Adams, and Franklin counties. Any money so retained shall be available for state highway purposes. [1984 c 7 § 101; 1961 c 13 § 47.10.110. Prior: 1951 c 121 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.210 Additional bonds—Source of funds for payment of principal and interest. Any funds required to repay such bonds, or the interest thereon when due shall be taken from that portion of the motor vehicle fund which results from the imposition of all excise taxes on motor vehicle fuels and which is, or may be, appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or the interest on any

bonds. [1984 c 7 § 102; 1961 c 13 § 47.10.210. Prior: 1953 c 154 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.340 Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of all excise taxes on motor vehicle fuels and which is, or may be, appropriated to the department for state highway purposes. They shall never constitute a charge against any allocation of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or the interest on any bonds: *Provided*, That money required hereunder to pay interest on or to retire any bonds issued for Columbia Basin county arterial highways or farm to market roads shall be repaid by any such county or counties wherein such highways or roads are constructed in the manner set forth in RCW 47.10.360. [1984 c 7 § 103; 1961 c 13 § 47.10.340. Prior: 1955 c 311 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.360 Construction in Grant, Franklin, Adams counties authorized—Reimbursement by counties. The secretary shall report to the state finance committee all sums expended from funds resulting from the sale of bonds for Columbia Basin county arterial highways and farm to market roads in Grant, Franklin, and Adams counties under the provisions of RCW 47.10.280 through 47.10.400. Those counties shall repay to the state all the cost of any Columbia Basin highway or road facilities actually constructed under the provisions of RCW 47.10.280 through 47.10.400 within each of those counties as follows: The state finance committee, at least one year prior to the date any such interest is due and payable on such bonds or before the maturity date of any such bonds, shall ascertain the percentage of the motor vehicle funds arising from the excise taxes on motor vehicle fuels, which is to be transferred to such counties under the provisions of law which will be necessary to pay all of the interest upon or retire when due all of the portion of said bonds chargeable to expenditures incurred under the provisions of RCW 47.10.280 through 47.10.400 in each of said counties. The state finance committee shall notify the state treasurer of this estimate and the treasurer shall thereafter, when distributions are made from the motor vehicle fund to counties, retain such percentage of the total sums credited to such counties as aforesaid in the motor vehicle fund arising from such excise taxes on motor vehicle fuels until such fund is fully reimbursed for all expenditures under RCW 47.10.280 through 47.10.400 in Grant, Adams, and Franklin counties. Any money so retained

shall be available for state highway purposes. [1984 c 7 § 104; 1961 c 13 § 47.10.360. Prior: 1955 c 311 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.470 Echo Lake route—Source of funds for payment of principal and interest. Any funds required to repay such bonds, or the interest thereon when due shall be taken from that portion of the motor vehicle fund which results from the imposition of all excise taxes on motor vehicle fuels and which is, or may be, appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or the interest on any bonds. [1984 c 7 § 105; 1961 c 13 § 47.10.470. Prior: 1957 c 206 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.716 Tacoma–Seattle–Everett facility—Source of funds for payment of principal and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle fuels and which is, or may be appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1984 c 7 § 106; 1961 c 13 § 47.10.716. Prior: 1957 c 189 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.718 Tacoma–Seattle–Everett facility—Additional security for payment of bonds—Pledge of federal funds. As additional security for payment of the principal amount of any or all of the bonds to be issued hereunder, the state finance committee, with the consent of the department, may pledge all or any portion of the federal aid funds received or from time to time to be received by the state from the United States under the provisions of the federal–aid highway act of 1956 for the construction of all or any part of the project referred to in RCW 47.10.700, 47.10.702, and 47.10.704. [1984 c 7 § 107; 1961 c 13 § 47.10.718. Prior: 1957 c 189 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.732 Construction in Grant, Franklin, Adams counties authorized—Source of funds for payment of bond principal and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of all excise taxes on motor vehicle fuels and

which is, or may be, appropriated to the department for state highway purposes. They shall never constitute a charge against any allocation of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or the interest on any bonds: *Provided*, That money required hereunder to pay interest on or to retire any bonds issued as authorized by RCW 47.10.726 through 47.10.738 shall be repaid by the county or counties wherein the highways or roads are constructed in the manner set forth in RCW 47.10.734. [1984 c 7 § 108; 1965 c 121 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.734 Construction in Grant, Franklin, Adams counties authorized—Repayment to state by Grant, Franklin and Adams counties by retention of funds. The secretary shall report to the state finance committee all sums expended from funds resulting from the sale of bonds authorized by RCW 47.10.726 through 47.10.738. Grant, Franklin, and Adams counties shall repay to the state all the cost of highway or road facilities actually constructed under the provisions of RCW 47.10.726 through 47.10.738 within each of said counties as follows: The state finance committee, at least one year prior to the date any such interest is due and payable on such bonds or before the maturity date of any such bonds, shall ascertain the percentage of the motor vehicle funds arising from the excise taxes on motor vehicle fuels, which is to be transferred to such counties under the provisions of law which will be necessary to pay all of the interest upon or retire when due all of the portion of said bonds sold under the provisions of RCW 47.10.726 through 47.10.738 in each of said counties. The state finance committee shall notify the state treasurer of this estimate and the treasurer shall thereafter, when distributions are made from the motor vehicle fund to counties, retain such percentage of the total sums credited to such counties as aforesaid in the motor vehicle fund arising from such excise taxes on motor vehicle fuels until such fund is fully reimbursed for all expenditures under RCW 47.10.726 through 47.10.738 in Grant, Adams, and Franklin counties. Any money so retained shall be available for state highway purposes. [1984 c 7 § 109; 1965 c 121 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.757 Additional funds—Source of funds for payment of bond principal and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle fuels and which is or may be appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of any other such funds to the state, counties, cities, and towns unless and until the amount of the motor vehicle fund arising

from the excise taxes on motor vehicle fuels and available to the state for construction of state highways proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1984 c 7 § 110; 1967 ex.s. c 7 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.761 Reserve funds—Purposes. It is the purpose of RCW 47.10.761 through 47.10.771 to provide reserve funds to the department for the following purposes:

(1) For construction, reconstruction, or repair of any state highway made necessary by slides, storm damage, or other unexpected or unusual causes;

(2) For construction or improvement of any state highway when necessary to alleviate or prevent intolerable traffic congestion caused by extraordinary and unanticipated economic development within any area of the state;

(3) To advance funds to any city or county to be used exclusively for the construction or improvement of any city street or county road when necessary to alleviate or prevent intolerable traffic congestion caused by extraordinary and unanticipated economic development within a particular area of the state. Before funds provided by the sale of bonds as authorized in RCW 47.10.761 through 47.10.770, are loaned to any city or county for the purposes specified herein, the department shall enter into an agreement with the city or county providing for repayment to the motor vehicle fund of such funds, together with the amount of bond interest thereon, from the city's or the county's share of the motor vehicle funds arising from excise taxes on motor vehicle fuels, over a period not to exceed twenty-five years. [1984 c 7 § 111; 1967 ex.s. c 7 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.767 Bonds—Designation of funds to repay bonds and interest. Any funds required to repay such bonds, or the interest thereon when due, subject to the proviso of this section, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle fuels and which is, or may be appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of such funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on any such bonds. [1984 c 7 § 112; 1967 ex.s. c 7 § 19.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.10.768 Bonds—Pledge of federal aid funds. As additional security for payment of the principal amount of any or all of the bonds to be issued hereunder, the state finance committee, with the consent of the department, may pledge all or any portion of the federal aid funds received or from time to time to be received by the

state from the United States under the provisions of the federal-aid highway act of 1956, as amended, for the construction of Washington's portion of the national system of interstate and defense highways. [1984 c 7 § 113; 1967 ex.s. c 7 § 20.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.12

ACQUISITION AND DISPOSITION OF STATE HIGHWAY PROPERTY

Sections	
47.12.011	Purchase options authorized.
47.12.023	Acquisition of state lands or interests or rights therein—Notice—Amount of compensation—Arbitration or court settlement—Reacquisition by department of natural resources.
47.12.026	Acquisition of state lands or interests or rights therein—Easements across navigable waters or harbors—Removal of materials—Relocation of railroad tracks.
47.12.029	Acquisition of state lands or interests or rights therein—Certain purposes prohibited.
47.12.040	Acquisition of property from a political subdivision.
47.12.050	Work on remaining land as payment.
47.12.066	Sale or lease of personal property—Provision of services—Proceeds placed in motor vehicle fund.
47.12.080	Sale or exchange of rights or land not needed for highway purposes—Transfer to United States, municipal subdivision, public utility—Proceeds.
47.12.160	Acquisition of land outside highway right of way to minimize damage.
47.12.180	Additional method of financing acquisition of property, engineering costs—Declaration of policy, public use, and highway purpose.
47.12.240	Additional method of financing acquisition of property, engineering costs—Transfer of interest from motor vehicle fund to purchasing fund—Time of warrant payment—Obligations are prior charge.
47.12.244	Advance right of way revolving fund.
47.12.246	Reimbursement to advance right of way revolving fund.
47.12.248	Structures acquired in advance of programmed construction to be maintained in good appearance.
47.12.250	Acquisition of property for preservation of beauty, historic sites, viewpoints, safety rest areas, buffer zones.
47.12.270	Acquisition of property for parking facilities for motorists using urban public transportation facilities or private car pool vehicles.
47.12.320	Sale of property—Listing of available properties with broker authorized.

47.12.011 Purchase options authorized. Whenever it becomes necessary or feasible to purchase rights of way for state highways, and the department deems it to be in the best interest of the general public, the department may secure options for purchase of property needed or proposed for any entire project or section thereof or proposed alignment for the location or relocation of any highway. [1984 c 7 § 114; 1961 c 13 § 47.12.011. Prior: 1955 c 49 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.023 Acquisition of state lands or interests or rights therein—Notice—Amount of compensation—Arbitration or court settlement—Reacquisition by department of natural resources. (1) Except as provided in RCW 47.12.026 and 47.12.029, whenever it

is necessary to secure any lands or interests in lands for any highway purpose mentioned in RCW 47.12.010, or for the construction of any toll facility or ferry terminal or docking facility, the title to which is in the state of Washington and under the jurisdiction of the department of natural resources, the department of transportation may acquire jurisdiction over the lands or interests in lands, or acquire rights to remove materials from the lands in the manner set forth in this section.

(2) At any time after the final adoption of a right of way plan or other plan requiring the acquisition of lands or interests in lands for any purpose as authorized in subsection (1) of this section, the department of transportation may file with the department of natural resources a notice setting forth its intent to acquire jurisdiction of the lands or interests in lands under the jurisdiction of the department of natural resources required for right of way or other highway purposes related to the construction or improvement of such state highway, toll facility, or ferry terminal or docking facility.

(3) The department of transportation at the time of filing its notice of intent as provided in subsection (2) of this section shall file therewith a written statement showing the total amount of just compensation to be paid for the property in the event of settlement. The offer shall be based upon the department of transportation approved appraisal of the fair market value of the property to be acquired. In no event may the offer of settlement be referred to or used during any arbitration proceeding or trial conducted for the purpose of determining the amount of just compensation.

(4) Just compensation and/or fair market value for the purposes of this section shall be determined in accordance with applicable federal and state constitutional, statutory, and case law relating to the condemnation of private and public property for public purposes.

(5) If the department of natural resources does not accept the offer of the department of transportation, the department of transportation may nonetheless pay to the department of natural resources the amount of its offer and obtain immediate possession and use of the property pending the determination of just compensation in the manner hereinafter provided.

(6) If the amount of just compensation is not agreed to, either the department of natural resources or the department of transportation may request in writing the appointment of an arbitrator for the purpose of determining the amount of compensation to be paid by the department of transportation for the acquisition of jurisdiction over the lands or interests in lands or rights therein. In that event the department of natural resources and the department of transportation may jointly agree on an arbitrator to determine the compensation, and his determination shall be final and conclusive upon both departments. The costs of the arbitrator shall be borne equally by the parties. If the department of natural resources and the department of transportation are unable to agree on the selection of an arbitrator within thirty days after a request therefor is made, either the department of transportation or the department

of natural resources may file a petition with the superior court for Thurston county for the purpose of determining the amount of just compensation to be paid. The matter shall be tried by the court pursuant to the procedures set forth in RCW 8.04.080.

(7) Whenever the department of transportation has acquired immediate possession and use of property by payment of the amount of its offer to the department of natural resources, and the arbitration award or judgment of the court for the acquisition exceeds the payment for immediate possession and use, the department of transportation shall forthwith pay the amount of such excess to the department of natural resources with interest thereon from the date it obtained immediate possession. If the arbitration or court award is less than the amount previously paid by the department of transportation for immediate possession and use, the department of natural resources shall forthwith pay the amount of the difference to the department of transportation.

(8) Upon the payment of just compensation, as agreed to by the department of transportation and the department of natural resources, or as determined by arbitration or by judgment of the court, and other costs or fees as provided by statute, the department of natural resources shall cause to be executed and delivered to the department of transportation an instrument transferring jurisdiction over the lands or interests in lands, or rights to remove material from the lands, to the department of transportation.

(9) Except as provided in RCW 47.12.026, whenever the department of transportation ceases to use any lands or interests in lands acquired in the manner set forth in this section for the purposes mentioned herein, the department of natural resources may reacquire jurisdiction over the lands or interests in land by paying the fair market value thereof to the department of transportation. If the two departments are unable to agree on the fair market value of the lands or interests in lands, the market value shall be determined and the interests therein shall be transferred in accordance with the provisions and procedures set forth in subsections (4) through (8) of this section. [1984 c 7 § 115; 1977 ex.s. c 103 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.026 Acquisition of state lands or interests or rights therein—Easements across navigable waters or harbors—Removal of materials—Relocation of railroad tracks. (1) The department of transportation may acquire an easement for highway or toll facilities right of way or for ferry terminal or docking facilities, including the right to make necessary fills, on, over, or across the beds of navigable waters which are under the jurisdiction of the department of natural resources, in accordance with the provisions of RCW 47.12.023, except that no charge may be made to the department of transportation for such an easement.

(2) The department of transportation may obtain an easement for highway or toll facilities purposes or for ferry terminal or docking facilities on, over, or across harbor areas in accordance with RCW 47.12.023 but

only when the areas are approved by the harbor line commission as a public place for public landings, wharves, or other public conveniences of commerce or navigation. No charge may be made to the department of transportation for such an easement.

(3) Upon the selection by the department of transportation of an easement for highway or toll facilities right of way or for ferry terminal or docking facilities, as authorized in subsections (1) and (2) of this section, the department of natural resources shall cause to be executed and delivered to the department of transportation an instrument transferring the easement. Whenever the state no longer requires the easement for highway or toll facilities right of way or for ferry terminal or docking facilities, the easement shall automatically terminate and the department of transportation shall, upon request, cause to be executed an instrument relinquishing to the department of natural resources all of its interest in the lands.

(4) The department of transportation, pursuant to the procedures set forth in RCW 47.12.023, may remove sand and gravel and borrow materials and stone from the beds of navigable waters under the jurisdiction of the department of natural resources which lie below the line of ordinary high water upon the payment of fair market value per cubic yard for such materials to be determined in the manner set forth in RCW 47.12.023.

(5) The department of transportation may acquire full jurisdiction over lands under the jurisdiction of the department of natural resources including the beds of navigable waters that are required for the relocation of the operating tracks of any railroad that will be displaced by the acquisition of such railroad property for state highway purposes. The department of transportation may exchange lands so acquired in consideration or partial consideration for the land or property rights needed for highway purposes and may cause to be executed a conveyance of the lands in the manner prescribed in RCW 47.12.150. In that event the department of transportation shall pay to the department of natural resources, as just compensation for the acquisition, the fair market value of the property, including the beds of any navigable waters, to be determined in accordance with procedures set forth in RCW 47.12.023. [1984 c 7 § 116; 1977 ex.s. c 103 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.029 Acquisition of state lands or interests or rights therein—Certain purposes prohibited. The department of transportation shall not acquire jurisdiction of any lands or interest in lands under the jurisdiction of the department of natural resources for any of the purposes set forth in RCW 47.12.150, 47.12.160, 47.12.180, 47.12.250, and 47.12.270. [1984 c 7 § 117; 1977 ex.s. c 103 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.040 Acquisition of property from a political subdivision. Whenever it is necessary to secure any lands for primary or secondary state highway right of way or

other state highway purposes, the title to which is in any county of the state or in any political or municipal subdivision of the state, which land is not at the time being used as a public highway, the county legislative authority or the board of directors or governing body of any such political or municipal subdivision are authorized to directly lease, sell, or convey by gift the land or any interest therein to the state of Washington, without requiring competitive bids or notice to the public, and at such price as the legislative authority, directors, or governing body may deem for the best interests of the county or for the best interests of the political or municipal subdivision of the state. The county legislative authority or the directors or governing body of any political or municipal subdivision are empowered to execute a deed or other proper instrument to the land, passing title to the state of Washington, and the instrument need not require consideration other than the benefit which may be derived by the grantor on account of the use thereof. Whenever any state highway is established by legislative enactment and the state highway is upon the former route of a county road, the county legislative authority shall cause the title to the existing right of way or so much thereof as the department requires to be transferred to the state of Washington by proper instrument. [1984 c 7 § 118; 1961 c 13 § 47.12.040. Prior: 1943 c 266 § 1; 1937 c 53 § 26; Rem. Supp. 1943 § 6400–26.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.050 Work on remaining land as payment. Whenever it is considered in the securing of any lands for state highway purpose, whether by condemnation or otherwise, that it is for the best interest of the state, for specific structural items of damage claimed, the court or judge may order or the person whose lands are sought may agree that a portion or all work or labor necessary to the land or remaining land by reason of the taking by way of damage, be performed by the state through the department as all or a part of the consideration or satisfaction of the judgment therefor, in which event the department may perform the work as a portion of the right of way cost of the state highway. [1984 c 7 § 119; 1961 c 13 § 47.12.050. Prior: 1937 c 53 § 27; RRS § 6400–27.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.066 Sale or lease of personal property—Provision of services—Proceeds placed in motor vehicle fund. (1) The department may sell at fair market value, or lease at rental value (economic rent), materials or other personal property to any United States agency or to any municipal corporation, political subdivision, or another agency of the state and may provide services to any United States agency or to any municipal corporation, political subdivision, or another agency of the state at actual cost, including a reasonable amount for indirect costs.

(2) The department may sell at fair market value materials or other personal property to any private utility company regulated by the utilities and transportation commission for the purpose of making emergency repairs to utility facilities or to protect such facilities from imminent damage upon a finding in writing by the secretary that an emergency exists.

(3) The proceeds of all sales and leases under this section shall be placed in the motor vehicle fund. [1984 c 7 § 120; 1977 ex.s. c 78 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.080 Sale or exchange of rights or land not needed for highway purposes—Transfer to United States, municipal subdivision, public utility—Proceeds. The secretary of transportation may transfer and convey to the United States, its agencies or instrumentalities, to any other state agency, to any county or city or port district of this state, or to any public utility company, any unused state-owned real property under the jurisdiction of the department of transportation when, in the judgment of the secretary of transportation and the attorney general, the transfer and conveyance is consistent with public interest. Whenever the secretary makes an agreement for any such transfer or conveyance, and the attorney general concurs therein, the secretary shall execute and deliver unto the grantee a deed of conveyance, easement, or other instrument, duly acknowledged, as shall be necessary to fulfill the terms of the aforesaid agreement. All moneys paid to the state of Washington under any of the provisions hereof shall be deposited in the motor vehicle fund. [1984 c 7 § 121. Prior: 1977 ex.s. c 151 § 49; 1977 ex.s. c 78 § 5; 1975 1st ex.s. c 96 § 3; 1961 c 13 § 47.12.080; prior: 1945 c 127 § 1; Rem. Supp. 1945 § 6400–120.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.160 Acquisition of land outside highway right of way to minimize damage. Whenever a part of a parcel of land is to be acquired for state highway purposes and the remainder lying outside of the right of way is to be left in such shape or condition as to be of little value to its owner or to give rise to claims or litigation concerning severance or other damage, and its value does not exceed the probable amount of the severance claims or damages, the department may acquire by gift, purchase, or condemnation the whole parcel and may sell that portion lying outside of the highway right of way or may exchange the same for other property needed for highway purposes. The provisions of this section do not apply if the taking of that portion of the land lying outside of the highway right of way would deprive any adjacent owner of an existing right of ingress and egress to his property. [1984 c 7 § 122; 1961 c 13 § 47.12.160. Prior: 1953 c 131 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.180 Additional method of financing acquisition of property, engineering costs—Declaration of policy, public use, and highway purpose. It is declared to be the

public policy of the state of Washington to provide for the acquisition of real property and engineering costs necessary for the improvement of the state highway system, in advance of actual construction, for the purposes of eliminating costly delays in construction, reducing hardship to owners of the property, and eliminating economic waste occasioned by the improvement of such property immediately prior to its acquisition for highway uses.

The legislature therefore finds and declares that purchase and condemnation of real property necessary for the state highway system and engineering costs, reasonably in advance of programmed construction, is a public use and purpose and a highway purpose.

The department is hereby authorized to purchase or condemn any real property or property rights therein which it deems will be necessary for the improvement of routes on the state highway system by the method provided in RCW 47.12.180 through 47.12.240 or alternatively by the method provided in RCW 47.12.242 through 47.12.246. Neither method may be used to condemn property or property rights in advance of programmed construction until the department has complied with hearing procedures required for the location or relocation of the type of highway for which the property is to be condemned. [1984 c 7 § 123; 1969 ex.s. c 197 § 1; 1961 c 281 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 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." [1961 c 281 § 12.]

47.12.240 Additional method of financing acquisition of property, engineering costs—Transfer of interest from motor vehicle fund to purchasing fund—Time of warrant payment—Obligations are prior charge. The state treasurer shall transfer from the motor vehicle fund to the credit of the fund purchasing such warrants interest at the rate and at the times provided for in the agreement. The state treasurer shall pay the warrants at the time provided for in the agreement. The obligations coming due are a prior charge against any funds in the motor vehicle fund available to the department for construction of state highways. [1984 c 7 § 124; 1961 c 281 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 c 281: See note following RCW 47.12.180.

47.12.244 Advance right of way revolving fund. There is created the "advance right of way revolving fund" in the custody of the treasurer, into which the department is authorized to deposit directly and expend without appropriation any federal moneys available for acquisition of right of way for future construction under the provisions of section 108 of Title 23, United States Code. [1984 c 7 § 125; 1969 ex.s. c 197 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.246 Reimbursement to advance right of way revolving fund. Whenever, after any properties or property rights are acquired from funds in the advance right of way revolving fund, the department proceeds with the construction of a highway which will require the use of any of the property so acquired, the department shall reimburse the advance right of way revolving fund, from other funds available to it, the amount of the prior expenditures for advance right of way acquisition for the state highway being constructed. Such deposits may be reexpended as provided in RCW 47.12.180, 47.12.200 through 47.12.230, and 47.12.242 through 47.12.248 without further or additional appropriations. [1984 c 7 § 126; 1969 ex.s. c 197 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.248 Structures acquired in advance of programmed construction to be maintained in good appearance. Whenever the department purchases or condemns any property under RCW 47.12.180 through 47.12.240 or 47.12.242 through 47.12.246, the department shall cause any structures so acquired and not removed within a reasonable time to be maintained in good appearance. [1984 c 7 § 127; 1969 ex.s. c 197 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.250 Acquisition of property for preservation of beauty, historic sites, viewpoints, safety rest areas, buffer zones. The department is authorized to acquire by purchase, lease, condemnation, gift, devise, bequest, grant, or exchange, title to or any interests or rights in real property adjacent to state highways for the preservation of natural beauty, historic sites or viewpoints or for safety rest areas or to provide a visual or sound buffer between highways and adjacent properties. However, the department shall not acquire, by condemnation, less than an owner's entire interest for providing a visual or sound buffer between highways and adjacent properties under RCW 47.12.010 and 47.12.250 if the owner objects to the taking of a lesser interest or right. [1984 c 7 § 128; 1967 c 108 § 5; 1965 ex.s. c 170 § 62.]

Severability—1984 c 7: See note following RCW 47.01.141.

Roadside areas—Safety rest areas: Chapter 47.38 RCW.

Scenic and Recreational Highway Act: Chapter 47.39 RCW.

47.12.270 Acquisition of property for parking facilities for motorists using urban public transportation facilities or private car pool vehicles. The department may acquire real property or interests in real property by gift, purchase, lease, or condemnation and may construct and maintain thereon fringe and transportation corridor parking facilities to serve motorists transferring to or from urban public transportation vehicles or private car pool vehicles. The department may obtain and exercise options for the purchase of property to be used for purposes described in this section. The department shall not expend any funds for acquisition or construction costs of any parking facility to be operated as a part of a transit system by a metropolitan municipal corporation unless

the facility has been approved by the department in advance of its acquisition or construction. [1984 c 7 § 129; 1973 2nd ex.s. c 18 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.12.320 Sale of property—Listing of available properties with broker authorized. The department may list any available properties with any licensed real estate broker at a commission rate otherwise charged in the geographic area for such services. [1984 c 7 § 130; 1973 1st ex.s. c 177 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.17

STATE HIGHWAY ROUTES

Sections

47.17.155	State route No. 97.
47.17.168	State route No. 102.
47.17.350	State route No. 171.
47.17.375	State route No. 193.
47.17.417	State route No. 213.
47.17.455	State route No. 240.
47.17.640	State route No. 501.
47.17.730	State route No. 524.
47.17.750	State route No. 528.
47.17.790	Repealed.
47.17.806	State route No. 547.
47.17.824	State route No. 823.
47.17.850	State route No. 906.

47.17.155 State route No. 97. A state highway to be known as state route number 97 is established as follows:

Beginning at the Washington–Oregon boundary on the interstate bridge across the Columbia river at Biggs Rapids, thence in a northerly direction to the junction with state route number 14 in the vicinity of Maryhill, thence in a northerly direction by way of Goldendale, thence northeasterly by way of Satus Pass to a junction with state route number 22 at Toppenish, thence northwesterly south of the Yakima river to a junction with state route number 82 at Union Gap; also

Beginning at a junction with state route number 90 in the vicinity of Ellensburg, thence northeasterly by the most feasible route by way of Blewett Pass to a junction with state route number 2 in the vicinity of Peshastin; also

Beginning at a junction with state route number 2 in the vicinity north of Wenatchee, thence northerly by the most feasible route by way of the vicinities of Chelan, Pateros, Brewster, Okanogan, and Oroville to the international boundary line. Until such time as the watergrade route between Chelan Station and Azwell, as designated by the department, is constructed and opened to traffic the existing route on the west side of the Columbia river shall remain the traveled way of state route number 97. [1984 c 7 § 131; 1975 c 63 § 3; 1973 1st ex.s. c 151 § 2; 1970 ex.s. c 51 § 32.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.168 State route No. 102. A state highway to be known as state route number 102 is established as follows:

Beginning at the Washington Corrections Center, thence northeasterly to a junction of state route number 101 north of Shelton.

Before award of any construction contract for improvements to state route number 102 under either program A or program C, the department of transportation shall secure a portion of the construction cost from Mason county. [1984 c 197 § 1.]

47.17.350 State route No. 171. A state highway to be known as state route number 171 is established as follows:

Beginning at a junction with state route number 90 west of Moses Lake, thence northeasterly by way of Moses Lake to a junction with state route number 28 in the vicinity west of Odessa. Until such time as state route number 171 is actually constructed on the location adopted by the department, no existing county roads may be maintained or improved by the department as a temporary route of state route number 171. [1984 c 7 § 132; 1970 ex.s. c 51 § 71.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.375 State route No. 193. A state highway to be known as state route number 193 is established as follows:

Beginning at a junction with state route number 12 in the vicinity of Clarkston, thence westerly and northerly by way of Steptoe canyon to a junction of state route number 195 in the vicinity of Colton. Until such time as state route number 193 between Colton and Clarkston is actually constructed on the location adopted by the department, no existing county roads may be maintained or improved by the department as a temporary route of state route number 193. [1984 c 7 § 133; 1970 ex.s. c 51 § 76.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.417 State route No. 213. A state highway to be known as state route number 213 is established as follows:

Beginning at a junction with state route number 97 in the vicinity of Malott, thence northeasterly to a junction with state route number 20 southwest of Okanogan. Until such time as this route is actually constructed on the location adopted by the department, no county roads may be maintained or improved by the department as a temporary route. [1984 c 7 § 134; 1973 1st ex.s. c 151 § 18.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.455 State route No. 240. A state highway to be known as state route number 240 is established as follows:

Beginning at a junction with state route number 24 in the vicinity east of Cold Creek, thence southeasterly by

the most feasible route across the Atomic Energy Commission Reservation to a junction with state route number 224 at Richland; also

From that junction with state route number 224 at Richland, thence southeasterly to a wye junction with state route number 12 at Richland. The secretary may enter into negotiations with appropriate federal agencies to secure right of way for the highway over and across the Atomic Energy Commission Reservation. [1984 c 7 § 135; 1970 ex.s. c 51 § 92.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.640 State route No. 501. A state highway to be known as state route number 501 is established as follows:

Beginning at a junction with state route number 5 at Vancouver, thence northerly by way of the lower river road and an extension thereof to Ridgefield, thence easterly to a junction with state route number 5 in the vicinity south of La Center. The department may enter into an agreement with the Port of Vancouver, and/or Clark county and/or the United States Army Engineers to obtain material dredged from the Columbia river and have it stockpiled at no expense to the state. [1984 c 7 § 136; 1970 ex.s. c 51 § 129.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.730 State route No. 524. A state highway to be known as state route number 524 is established as follows:

Beginning at a junction with state route number 104 at Edmonds, thence northeasterly to a junction with state route number 5 in the vicinity of Lynnwood, thence easterly to a junction with state route number 527. Until such times as state route number 524 east of Lynnwood is actually constructed on the location adopted by the department, no existing county roads may be maintained or improved by the department as a temporary route of state route number 524. [1984 c 7 § 137; 1970 ex.s. c 51 § 147.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.750 State route No. 528. A state highway to be known as state route number 528 is established as follows:

Beginning at a junction with state route number 5 near Marysville, thence easterly to a junction with state route number 9. Until such time as state route number 528 from Marysville to a junction with state route number 9 is actually constructed on the location adopted by the department, no existing city streets or county roads may be maintained or improved by the department as a temporary route of state route number 528. [1984 c 7 § 138; 1971 ex.s. c 73 § 18; 1970 ex.s. c 51 § 151.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.17.790 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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47.17.806 State route No. 547. A state highway to be known as state route number 547 is established as follows:

Beginning at the junction of state route number 542 in the vicinity of Kendall, thence northwesterly to a junction with state route number 9 at Sumas. [1984 c 197 § 2.]

47.17.824 State route No. 823. A state highway to be known as state route number 823 is established as follows:

Beginning at the junction of state route number 82 at the Selah interchange, thence northerly to a junction with Fasset Avenue in Selah.

Before award of any construction contract for improvements to state route number 823 under either program A or program C, the department of transportation shall secure a portion of the construction cost from the city of Selah or Yakima county, or both. [1984 c 197 § 3.]

47.17.850 State route No. 906. A state highway to be known as state route number 906 is established as follows:

Beginning at a junction with state route number 90 at the West Summit interchange of Snoqualmie Pass, thence along the alignment of the state route number 90 as it existed on May 11, 1967, in a southeasterly direction to a junction with state route number 90 at the Hyak interchange.

The legislative transportation committee, the house and senate transportation committees, and the department shall undertake appropriate studies to evaluate state route number 906 to determine whether or not it should permanently remain on the state system. [1984 c 7 § 139; 1977 ex.s. c 235 § 16; 1971 ex.s. c 73 § 26; 1970 ex.s. c 51 § 171.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.20

MISCELLANEOUS PROJECTS

Sections	
47.20.570	Manette bridge authorized.
47.20.580	Washington State University highway authorized.
47.20.590	University of Washington approach authorized.
47.20.600	Washington State University highway, University of Washington approach—Acquisition of property.
47.20.605	Washington State University highway, University of Washington approach—Public use.
47.20.610	Washington State University highway, University of Washington approach—Condemnation.
47.20.630	Washington State University highway, University of Washington approach—Sale of buildings, personally, acquired in acquisition of land.
47.20.635	University of Washington approach—Ordinance requisite—Construction and maintenance.
47.20.640	Reestablishment and redesignation of intersections when highway relocated.
47.20.645	Interstate 90 corridor—Legislative finding.
47.20.649	Repealed.
47.20.651	Repealed.

47.20.570 Manette bridge authorized. The department is authorized and directed to construct a bridge across Port Washington Narrows connecting state route number 304 at or near Bremerton with state route number 303 on the Manette Peninsula; to make surveys and plans; and to condemn or otherwise acquire such lands as are necessary or proper for approaches to the bridge or for the relocation of any portion of the highway to locate the bridge at the most feasible place. The bridge shall become and be maintained as a part of the state highway system. [1984 c 7 § 140; 1970 ex.s. c 51 § 173; 1961 c 13 § 47.20.570. Prior: 1947 c 4 p 6 § 2; Rem. Supp. 1947 § 6584a-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.580 Washington State University highway authorized. The department is hereby authorized and directed to locate, construct, pave, and maintain a suitable highway on the most feasible route beginning in the vicinity of the stadium of the Washington State University and extending in a northwesterly direction to a connection with state route number 27, near the north boundary of the city of Pullman. [1984 c 7 § 141; 1970 ex.s. c 51 § 174; 1961 c 13 § 47.20.580. Prior: 1945 c 27 § 1; Rem. Supp. 1945 § 6402-40.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.590 University of Washington approach authorized. The department is hereby authorized and directed to select and locate a suitable and fitting street and highway approach to the University of Washington campus in the city of Seattle, from Roosevelt Way to Fifteenth Avenue northeast, including an underpass beneath the surface of Roosevelt Way, and necessary approaches to the underpass. [1984 c 7 § 142; 1961 c 13 § 47.20.590. Prior: 1945 c 27 § 2; Rem. Supp. 1945 § 6402-41.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.600 Washington State University highway, University of Washington approach—Acquisition of property. The department is hereby authorized and directed in the name of the state of Washington to acquire by purchase, gift, or condemnation, any and all private real estate, rights, and interests necessary to locate, construct, and maintain the Washington State University highway and the University of Washington approach provided for herein. [1984 c 7 § 143; 1961 c 13 § 47.20.600. Prior: 1945 c 27 § 3; Rem. Supp. 1945 § 6402-42.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.605 Washington State University highway, University of Washington approach—Public use. The use of the private real estate, rights, and interests, selected by the department as necessary for the approach, underpass, and highway is declared to be a public use. [1984 c 7 § 144; 1961 c 13 § 47.20.605. Prior: 1945 c 27 § 4; Rem. Supp. 1945 § 6402-43. Formerly RCW 47.20.600, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.610 Washington State University highway, University of Washington approach—Condemnation. In case of condemnation to secure any real estate, rights, or interests authorized under this chapter, the court actions shall be brought in the name of the state of Washington in the respective counties in which the real estate is located and in the manner provided by law for acquiring property for public uses for the state. In such actions the selection of the real estate, rights, and interests by the department is, in the absence of bad faith, arbitrary, capricious, or fraudulent action, conclusive upon the court and judge before which the action is brought that the real estate, rights, and interests are necessary for public use for the purposes sought. [1984 c 7 § 145; 1961 c 13 § 47.20.610. Prior: 1945 c 27 § 5; Rem. Supp. 1945 § 6402-44.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.630 Washington State University highway, University of Washington approach—Sale of buildings, personalty, acquired in acquisition of land. The department shall have power to sell at public or private sale any building, equipment, or fixtures acquired in the acquisition of the real estate for such price as it shall fix and to execute to the purchaser upon payment of the purchase price a bill of sale in the name of the state. Proceeds of the sale shall be placed in the motor vehicle fund of the state treasury. The department shall have power to permit occupation of buildings on real estate so acquired for such specified limited time as it deems will lapse before construction of the approach, underpass, and highway can be undertaken; and in behalf of the state it may be shown in any condemnation proceeding the period during which such occupancy will be permitted for the purpose of mitigating damages. [1984 c 7 § 146; 1961 c 13 § 47.20.630. Prior: 1945 c 27 § 7; Rem. Supp. 1945 § 6402-46.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.635 University of Washington approach—Ordinance requisite—Construction and maintenance. No action may be taken by the department for the acquisition of real estate, rights, and interests for the approach and underpass to the University of Washington unless and until the city of Seattle, through its legislative authority, enacts an ordinance providing that the city of Seattle will, within three months after the necessary real estate, rights, and interests have been secured by the state as provided in this chapter, begin the work of grading, paving, and such other work as is necessary to complete and render available for use of the public, the approach and underpass and approaches to the underpass; and further providing that the city of Seattle shall thereafter keep and maintain the approach and underpass and approach to the underpass in a good state of repair and suitable for public travel and use, which construction and maintenance work the city of Seattle is hereby authorized and empowered to do and perform. [1984 c 7 § 147; 1961 c 13 § 47.20.635. Prior: 1945 c 27 § 8; Rem. Supp. 1945 § 6402-47.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.640 Reestablishment and redesignation of intersections when highway relocated. In any case where a state highway is relocated in such manner that it ceases to intersect another state highway, the department is authorized to extend and designate either of the state highways to reestablish an appropriate intersection. [1984 c 7 § 148; 1967 ex.s. c 145 § 44; 1961 c 13 § 47-.20.640. Prior: 1953 c 82 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.645 Interstate 90 corridor—Legislative finding. The legislature finds that the department initiated route studies for the location of that segment of the national system of interstate and defense highways (interstate system) between south Bellevue and state route No. 5 in Seattle in 1957 culminating in a corridor public hearing and adoption of a corridor in 1963; that thereafter the department, utilizing a multidisciplinary design team and soliciting the broadest public participation, developed a series of designs culminating in a public design hearing in 1970, a public limited access hearing in 1971, and adoption of a design and limited access plan for the facility in 1971; that commencing in 1970 the proposed facility has been the subject of numerous lawsuits and administrative proceedings that have prevented advancement of the project to construction; that since further development of the project was enjoined by federal courts in 1971 the cost of constructing the project has increased by more than one hundred million dollars; that the traffic congestion and traffic hazards existing in the existing highway corridor between south Bellevue, Mercer Island, and the city of Seattle are no longer tolerable; that after more than seventeen years of studies the public interest now requires that final decisions regarding the appropriate system for meeting the transportation requirements between south Bellevue and the city of Seattle be made promptly and in accordance with a prescribed schedule.

It is therefore the sense of the legislature that further protracted delay in establishing the transportation system to be constructed between south Bellevue and state route No. 5 in the city of Seattle is contrary to the interest of the people of this state and can no longer be tolerated as acceptable public administration. Accordingly the schedule for finally determining the character of transportation modes between south Bellevue and state route No. 5 in the city of Seattle as set forth in RCW 47.20.645 through 47.20.653 and 47.20.900 is adopted as the public policy of this state. [1984 c 7 § 149; 1975 1st ex.s. c 272 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.20.649 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.20.651 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 47.24

CITY STREETS AS PART OF STATE HIGHWAYS

Sections

47.24.020	Jurisdiction, control of such streets.
47.24.030	Acquisition of rights of way—Condemnation proceedings.
47.24.050	Aid on streets by state or county—Payment.

47.24.020 Jurisdiction, control of such streets. The jurisdiction, control, and duty of the state and city or town with respect to such streets shall be as follows:

(1) The department has no authority to change or establish any grade of any such street without approval of the governing body of such city or town, except with respect to limited access facilities established by the commission;

(2) The city or town shall exercise full responsibility for and control over any such street beyond the curbs and if no curb is installed, beyond that portion of the highway used for highway purposes. However, within incorporated cities and towns the title to a state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over such facility as provided in chapter 47.52 RCW;

(3) The department has authority to prohibit the suspension of signs, banners, or decorations above the portion of such street between the curbs or portion used for highway purposes up to a vertical height of twenty feet above the surface of the roadway;

(4) The city or town shall at its own expense maintain all underground facilities in such streets, and has the right to construct such additional underground facilities as may be necessary in such streets;

(5) The city or town has the right to grant the privilege to open the surface of any such street, but all damage occasioned thereby shall promptly be repaired either by the city or town itself or at its direction;

(6) The city or town at its own expense shall provide street illumination and shall clean all such streets, including storm sewer inlets and catch basins, and remove all snow, except that the state shall when necessary plow the snow on the roadway. In cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management, the state, when necessary for public safety, shall assume, at its expense, responsibility for the stability of the slopes of cuts and fills and the embankments within the right of way to protect the roadway itself. The state shall install, maintain, and operate all illuminating facilities on any limited access facility, together with its interchanges, located within the corporate limits of any city or town, and shall assume and pay the costs of all such installation, maintenance, and operation incurred after November 1, 1954;

(7) The department has the right to use all storm sewers on such highways without cost; and if new storm sewer facilities are necessary in construction of new streets by the department, the cost of the facilities shall be borne by the state and/or city as may be mutually

agreed upon between the department and the governing body of the city or town;

(8) Cities and towns have exclusive right to grant franchises not in conflict with state laws, over, beneath, and upon such streets, but the department is authorized to enforce in an action brought in the name of the state any condition of any franchise which a city or town has granted on such street. No franchise for transportation of passengers in motor vehicles may be granted on such streets without the approval of the department, but the department shall not refuse to approve such franchise unless another street conveniently located and of strength of construction to sustain travel of such vehicles is accessible;

(9) Every franchise or permit granted any person by a city or town for use of any portion of such street by a public utility shall require the grantee or permittee to restore, repair, and replace to its original condition any portion of the street damaged or injured by it;

(10) The city or town has the right to issue overload or overwidth permits for vehicles to operate on such streets or roads subject to regulations printed and distributed to the cities and towns by the department;

(11) Cities and towns shall regulate and enforce all traffic and parking restrictions on such streets, but all regulations adopted by a city or town relating to speed, parking, and traffic control devices on such streets not identical to state law relating thereto are subject to the approval of the department before becoming effective. All regulations pertaining to speed, parking, and traffic control devices relating to such streets heretofore adopted by a city or town not identical with state laws shall become null and void unless approved by the department heretofore or within one year after March 21, 1963;

(12) The department shall erect, control, and maintain at state expense all route markers and directional signs, except street signs, on such streets;

(13) The department shall install, operate, maintain, and control at state expense all traffic control signals, signs, and traffic control devices for the purpose of regulating both pedestrian and motor vehicular traffic on, entering upon, or leaving state highways in cities and towns having a population of fifteen thousand or less according to the latest determination of population by the office of financial management. Such cities and towns may submit to the department a plan for traffic control signals, signs, and traffic control devices desired by them, indicating the location, nature of installation, or type thereof, or a proposed amendment to such an existing plan or installation, and the department shall consult with the cities or towns concerning the plan before installing such signals, signs, or devices. Cities and towns having a population in excess of fifteen thousand according to the latest determination of population by the office of financial management shall install, maintain, operate, and control such signals, signs, and devices at their own expense, subject to approval of the department for the installation and type only. For the purpose of this subsection, striping, lane marking, and channelization are considered traffic control devices;

(14) All revenue from parking meters placed on such streets belongs to the city or town;

(15) Rights of way for such streets shall be acquired by either the city or town or by the state as shall be mutually agreed upon. Costs of acquiring rights of way may be at the sole expense of the state or at the expense of the city or town or at the expense of the state and the city or town as may be mutually agreed upon. Title to all such rights of way acquired by a city or town immediately vests in the city or town. Title to all rights of way acquired by the state remains in the state until actually used for construction or other street purpose. Upon completion of the construction, the rights of way actually used for street purposes shall be conveyed to the city or town by deed executed by the secretary and duly acknowledged. No vacation, sale, or rental of any unused portion of any such street may be made by the city or town without the approval of the department; and all revenue derived from sale, vacation, or rental of such rights of way shall be shared by the city or town and the state in the same proportion as the purchase costs were shared;

(16) If any city or town fails to perform any of its obligations as set forth in this section or in any cooperative agreement entered into with the department for the maintenance of a city or town street forming part of the route of a state highway, the department may notify the mayor of the city or town to perform the necessary maintenance within thirty days. If the city or town within the thirty days fails to perform the maintenance or fails to authorize the department to perform the maintenance as provided by RCW 47.24.050, the department may perform the maintenance, the cost of which is to be deducted from any sums in the motor vehicle fund credited or to be credited to the city or town. [1984 c 7 § 150; 1977 ex.s. c 78 § 7; 1967 c 115 § 1; 1963 c 150 § 1; 1961 c 13 § 47.24.020. Prior: 1957 c 83 § 3; 1955 c 179 § 3; 1953 c 193 § 1; 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.24.030 Acquisition of rights of way—Condemnation proceedings. The department is authorized to acquire rights of way, by purchase, gift, or condemnation for any such streets, highways, bridges, and wharves. Any such condemnation proceedings shall be exercised in the manner provided by law for condemnation proceedings to acquire lands required for state highways. [1984 c 7 § 151; 1961 c 13 § 47.24.030. Prior: 1949 c 220 § 5, part; 1945 c 250 § 1, part; 1943 c 82 § 10, part; 1937 c 187 § 61, part; Rem. Supp. 1949 § 6450-61, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.24.050 Aid on streets by state or county—Payment. If a city or town, whether or not any of its streets are designated as forming a part of a state highway, is unable to construct, repair, or maintain its streets

for good cause, or if it is in need of engineering assistance to construct, repair, or maintain any of its streets, it may authorize the department to perform such construction, repair, or maintenance, or it may secure necessary engineering assistance from the department, to the extent of the funds credited or to be credited in the motor vehicle fund for payment to the city or town. Any sums due from a city or town for such purposes shall be paid on vouchers approved and submitted by the department from moneys credited to the city or town in the motor vehicle fund, and the amount of the payments shall be deducted from funds which would otherwise be paid to the city or town from the motor vehicle fund. The department may in certain special cases, in its discretion, enter into an agreement with the governing officials of the city or town for the performance of such work or services, the terms of which shall provide for reimbursement of the motor vehicle fund for the benefit of the state's share of the fund by the city or town of the cost thereof from any funds of the city or town on hand and legally available for the work or services. The city or town may, by resolution, authorize the legislative authority of the county in which it is located, to perform any such construction, repair, or maintenance, and the work shall be paid for by the city or town at the actual cost thereof as provided for payment for work performed on city streets, and any payment received therefor by a county shall be deposited in the county road fund to be expended under the same provisions as are imposed upon the funds used to perform the construction, repair, or maintenance. [1984 c 7 § 152; 1961 c 13 § 47.24.050. Prior: 1951 c 54 § 1; 1949 c 220 § 6; 1943 c 82 § 11; 1937 c 187 § 63; Rem. Supp. 1949 § 6450-63.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.26

DEVELOPMENT IN URBAN AREAS—URBAN ARTERIALS

Sections

47.26.040	"Urban area" defined.
47.26.070	Apportioned funds to be budgeted and expended for projects in urban areas—Priority programming—Long-range objectives.
47.26.160	Urban arterial board—Powers and duties.
47.26.170	Long-range arterial construction plans—Counties and cities to prepare and submit to urban arterial board—Revision.
47.26.185	Qualifications for administering and supervising urban arterial projects—Rules by board.
47.26.230	Joint planning of urban arterial development—Arterial in city crossing into unincorporated area or adjacent city—Arterial affected by state highway—Urban arterial board to adopt rules.
47.26.280	Repealed.
47.26.290	Appeal of action or decision of urban arterial board.
47.26.310	Bicycle routes—Standards for designation of bicycle route systems.
47.26.400	Issuance and sale of general obligation bonds—Authorized—Amount—Declaration of purpose.
47.26.410	Expenditures from fuel taxes and bond proceeds for urban state highways in excess of amount apportionable to a region authorized.
47.26.440	Budget for expenditures from urban arterial trust account—Estimate of revenues—Submission to

commission—Revision—Submission to governor and legislature.

47.26.040 "Urban area" defined. The term "urban area" means every area of this state designated as an urban area by the department with the approval of the federal secretary of transportation in accordance with federal law, hereafter referred to as federally approved urban areas, or areas within incorporated cities. [1984 c 7 § 153; 1977 ex.s. c 317 § 12; 1975 1st ex.s. c 253 § 1; 1967 ex.s. c 83 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective dates—**Severability**—1977 ex.s. c 317: See notes following RCW 82.36.010.

47.26.070 Apportioned funds to be budgeted and expended for projects in urban areas—Priority programming—Long-range objectives. Funds available for expenditure by the department pursuant to RCW 46.68-.150 and apportioned to the five regions of the state shall be budgeted and expended, pursuant to proper appropriations, for specific state highway improvement projects within the urban areas of each region in accordance with the priority programming procedures established in chapter 47.05 RCW. Such expenditures in urban areas shall be additional to expenditures from all other construction funds regularly programmed for state highway improvements throughout the state pursuant to chapter 47.05 RCW. The department is authorized to establish separate long-range objectives in terms of the percentages of completion of construction needs for the several functional classes of highways within the urban areas of each region. [1984 c 7 § 154; 1967 ex.s. c 83 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.160 Urban arterial board—Powers and duties. The urban arterial board shall:

(1) Adopt rules necessary to implement the provisions of this chapter relating to the allocation of funds in the urban arterial trust account of the motor vehicle fund to counties and cities;

(2) Adopt reasonably uniform design standards for city and county arterials that meet the requirements for urban development;

(3) Report biennially on the first day of November of the even-numbered years to the department, the legislative transportation committee, and the house and senate transportation committees regarding progress of cities and counties in developing long-range plans for their urban arterial construction and programming or urban arterial construction work and the allocation of urban arterial trust funds to the cities and counties. [1984 c 7 § 155; 1977 ex.s. c 235 § 17; 1971 ex.s. c 291 § 1; 1967 ex.s. c 83 § 22.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.170 Long-range arterial construction plans—Counties and cities to prepare and submit to urban arterial board—Revision. The legislative authority of each county or city lying within or having within its boundaries an urban area shall prepare, adopt,

and submit to the urban arterial board a long-range plan for arterial construction, taking into account the comprehensive land use plan of each such jurisdiction and setting forth arterial construction needs through a fourteen-year advance planning period. The long-range arterial construction plans shall be revised by the counties and cities every two years to show the current arterial construction needs through a fourteen-year advanced planning period, and as revised shall be submitted to the urban arterial board during the first week of January of every even-numbered year. The long-range plans shall be prepared pursuant to guidelines established by the urban arterial board and with the assistance of the board and the department. Upon receipt of the long-range arterial construction plans of the several counties and cities, the urban arterial board shall revise the construction needs for urban arterials set forth in the plans as necessary to conform with its uniform standards for establishing construction needs of the counties and cities. [1984 c 7 § 156; 1971 ex.s. c 291 § 2; 1967 ex.s. c 83 § 23.]

Severability—1984 c 7: See note following RCW 47.01.141.
Revisions to include bicycle route systems: RCW 47.26.315.

47.26.185 Qualifications for administering and supervising urban arterial projects—Rules by board. The urban arterial board may adopt rules establishing qualifications for cities and counties administering and supervising the design and construction of urban arterial projects financed in part from the urban arterial trust account. The rules establishing qualification shall take into account the resources and population of the city or county, its permanent engineering staff, its design and construction supervision experience, and other factors the board deems appropriate. Any city or county failing to meet the qualifications established by the board for administering and supervising an urban arterial project shall contract with a qualified city or county or the department for the administration and supervision of the design and construction of any approved urban arterial project as a condition for receiving urban arterial trust account funds for the project. [1984 c 7 § 157; 1975 1st ex.s. c 253 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.230 Joint planning of urban arterial development—Arterial in city crossing into unincorporated area or adjacent city—Arterial affected by state highway—Urban arterial board to adopt rules. Whenever an urban arterial in a city crosses into an unincorporated urban area or into an adjacent city, the proper city and county officials shall jointly plan the development of the arterial in their respective long-range plans, arterial classification plans, and six-year construction programs. Whenever an urban arterial connects with and will be substantially affected by a programmed construction project on a state highway, the proper county or city officials shall jointly plan the development of the connecting arterial with the appropriate department of transportation district administrator. The urban arterial

board shall adopt rules providing for the system development of county-city arterials and urban arterials with state highways. [1984 c 7 § 158; 1967 ex.s. c 83 § 29.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.26.290 Appeal of action or decision of urban arterial board. The legislative body of any county or city feeling aggrieved by any action or decision of the urban arterial board may appeal to the commission by filing with the secretary a notice of appeal within ninety days after the action or decision of the urban arterial board. The notice shall specify the action or decision complained of. The commission shall fix a time for a hearing on the appeal at the earliest convenient time and shall notify either the county auditor or the city clerk, and also the chairman of the urban arterial board, by certified mail at least twenty days before the date of the hearing. At the hearing the commission shall receive evidence from the county or city filing the appeal and from the urban arterial board. After the hearing the commission shall make such order as in its judgment is just and proper. [1984 c 7 § 159; 1967 ex.s. c 83 § 35.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.310 Bicycle routes—Standards for designation of bicycle route systems. Prior to July 1, 1974, the urban arterial board shall adopt:

(1) Standards for the designation of a bicycle route system which shall include, but need not be limited to, consideration of:

(a) Existing and potential bicycle traffic generating activities, including but not limited to places of employment, schools, colleges, shopping areas, and recreational areas;

(b) Directness of travel and distance between potential bicycle traffic generating activities; and

(c) Safety for bicyclists and avoidance of conflict with vehicular traffic which shall include, wherever feasible, designation of bicycle routes on streets parallel but adjacent to existing designated urban arterial routes.

(2) Insofar as is practicable to achieve reasonable uniformity, design standards for bicycle routes shall take into consideration the construction standards and signing system devised by the department pursuant to RCW 47.30.060. [1984 c 7 § 160; 1974 ex.s. c 141 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.400 Issuance and sale of general obligation bonds—Authorized—Amount—Declaration of purpose. In order to provide funds necessary to meet the urgent needs for highway construction on state highways within urban areas, there shall be issued and sold general obligation bonds of the state of Washington in the sum of two hundred million dollars or such amount thereof and at such times as determined to be necessary by the commission. The amount of the bonds issued and sold under the provisions of RCW 47.26.400 through

47.26.407 in any biennium shall not exceed the amount of a specific appropriation therefor from the proceeds of such bonds, for the construction of state highways in urban areas. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee which, upon request being made by the commission, shall provide for the issuance, sale, and retirement of coupon or registered bonds to be dated, issued, and sold from time to time in such amounts as shall be requested by the commission. [1984 c 7 § 161; 1973 1st ex.s. c 169 § 1; 1967 ex.s. c 83 § 36.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.410 Expenditures from fuel taxes and bond proceeds for urban state highways in excess of amount apportionable to a region authorized. Notwithstanding the provisions of RCW 47.26.060, the department is authorized in any biennium, subject to proper appropriations, to expend from funds available pursuant to RCW 46.68.150, for urban state highway construction projects within a region, an amount including bond proceeds which may exceed the amount apportionable during the biennium to the region. The total amounts apportioned to each region through 1985 shall meet the apportionment requirements of RCW 47.26.060 for such period. [1984 c 7 § 162; 1967 ex.s. c 83 § 44.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.26.440 Budget for expenditures from urban arterial trust account—Estimate of revenues—Submission to commission—Revision—Submission to governor and legislature. Not later than November 1st of each even-numbered year the urban arterial board shall prepare and present to the commission a recommended budget for expenditures from the urban arterial trust account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the urban arterial trust account and the amount, if any, of bond proceeds which the board determines should be made available to the urban arterial trust account through the sale of bonds in the ensuing biennium.

The commission shall review the budget as recommended, revise the budget as it deems proper, and include the budget for the urban arterial board as revised as a separate section of the transportation budget which it shall submit to the governor and the legislature at the time of its convening. [1984 c 7 § 163; 1967 ex.s. c 83 § 54.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.28

CONSTRUCTION AND MAINTENANCE OF HIGHWAYS

Sections

47.28.020	Width of right of way.
47.28.025	Description and plan of new or limited access highway—Recording.

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47.28.026	Description and plan of new or limited access highway—Buildings and improvements prohibited, when.
47.28.030	Contracts—State forces—Monetary limits—Small businesses, minority, and women contractors—Rules.
47.28.035	Cost of project, defined.
47.28.040	Precontract preparation of maps, plans, and specifications—Filing.
47.28.060	Copy of map, plans, etc.—Charge.
47.28.070	Form of bid—Data required—Requirements—Refusal to furnish form—Appeal.
47.28.080	Withdrawal of bids—New bids—Time fixed in call controls.
47.28.100	Contract and bond—Forfeiture and return of deposits—Rejection of all bids—Readvertisement.
47.28.110	Sureties—Qualifications—Additional sureties.
47.28.120	Actions for labor and materials—Limitation of action.
47.28.140	Agreements to benefit or improve highways, roads, or streets, establish urban public transportation system—Labor or contract—Costs.
47.28.170	Emergency protection and restoration of highways.

47.28.020 Width of right of way. From and after April 1, 1937, the width of one hundred feet is the necessary and proper right of way width for state highways unless the department, for good cause, adopts and designates a different width. This section shall not be construed to require the department to acquire increased right of way for any state highway in existence on such date. [1984 c 7 § 164; 1961 c 13 § 47.28.020. Prior: 1937 c 53 § 30; RRS § 6400-30; 1913 c 65 § 8; RRS § 6831.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.025 Description and plan of new or limited access highway—Recording. Whenever the department establishes the location, width, and lines of any new highway, or declares any such new highway as a limited access facility and schedules the acquisition of the right of way for the highway or facility within the ensuing two years, it may cause the description and plan of any such highway to be made, showing the center line of the highway and the established width thereof, and attach thereto a certified copy of the resolution. Such description, plan, and resolution shall then be recorded in the office of the county auditor of the proper county in a separate book kept for such purposes, which shall be furnished to the county auditor of the county by the department at the expense of the state. [1984 c 7 § 165; 1977 ex.s. c 225 § 1; 1961 c 13 § 47.28.025. Prior: 1955 c 161 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.026 Description and plan of new or limited access highway—Buildings and improvements prohibited, when. (1) No owner or occupier of lands, buildings, or improvements may erect any buildings or make any improvements within the limits of any such highway, the location, width, and lines of which have been established and recorded as provided in RCW 47.28.025. If any such erection and improvements are made, no allowances may be had therefor by the assessment of damages. No permits for improvements within the limits

may be issued by any authority. The establishment of any highway location as set forth in RCW 47.28.025 is ineffective after one year from the filing thereof if no action to condemn or acquire the property within the limits has been commenced within that time.

(2) Unless and until the department causes a plan of a proposed new highway or limited access facility to be recorded in the office of the county auditor as authorized in RCW 47.28.025, nothing contained in RCW 47.28.025 or 47.28.026 may be deemed to restrict or restrain in any manner the improvement, development, or other use by owners or occupiers of lands, buildings, or improvements within the limits of any proposed new or limited access highway or any proposed relocated or widened highway. Because of the uncertainties of federal aid and the state level of funding of proposed construction or improvement of state highways, plans for such improvements approved by the department shall be deemed tentative until filed with the county auditor as authorized in RCW 47.28.025 or until the department commences action to condemn or otherwise acquire the right of way for the highway improvements. [1984 c 7 § 166; 1977 ex.s. c 225 § 2; 1961 c 13 § 47.28.026. Prior: 1955 c 161 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.030 Contracts—State forces—Monetary limits—Small businesses, minority, and women contractors—Rules. A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right of way purposes may be repaired or renovated pending the use of such right of way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof is less than thirty thousand dollars: *Provided*, That when delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than fifty thousand dollars. When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor. To enable a larger number of small businesses, and minority, and women contractors to effectively compete for highway department contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed fifty thousand dollars. The rules adopted under this section:

(1) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

(2) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have

been made to laborers, materialmen, mechanics, and subcontractors from the previous partial payment; and

(3) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules adopted by the office of minority and women's business enterprises under chapter 39.19 RCW. [1984 c 194 § 1; 1983 c 120 § 15; 1977 ex.s. c 225 § 3; 1973 c 116 § 1; 1971 ex.s. c 78 § 1; 1969 ex.s. c 180 § 2; 1967 ex.s. c 145 § 40; 1961 c 233 § 1; 1961 c 13 § 47.28.030. Prior: 1953 c 29 § 1; 1949 c 70 § 1, part; 1943 c 132 § 1, part; 1937 c 53 § 41, part; Rem. Supp. 1949 § 6400–41, part.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

Office of minority and women's business enterprises: Chapter 39.19 RCW.

47.28.035 Cost of project, defined. The cost of any project for the purposes of RCW 47.28.030 shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously. The department shall not permit the construction of any project by state forces by dividing a project into units of work or classes of work to give the appearance of compliance with RCW 47.28.030. [1984 c 194 § 2.]

47.28.040 Precontract preparation of maps, plans, and specifications—Filing. Before entering into any contract for the construction, alteration, repair, or improvement of any state highway the department shall cause the highway to be surveyed throughout the entire length of the proposed construction, alteration, repair, or improvement and cause to be prepared maps, plans, and specifications, together with an estimate of the cost of the proposed work, and such information and directions as will enable a contractor to carry them out. The maps, plans, specifications, and directions shall be approved by the department and a copy thereof filed permanently in the department's office. [1984 c 7 § 167; 1961 c 13 § 47.28.040. Prior: 1937 c 53 § 32, part; RRS § 6400–32, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.060 Copy of map, plans, etc.—Charge. Any person, firm, or corporation is entitled to receive copies of the maps, plans, specifications, and directions for any work upon which call for bids has been published, upon written request therefor and payment to the department of a reasonable sum as required by the department in the call for bids for each copy of such maps, plans, and specifications. Any money so received shall be certified

by the department to the state treasurer and deposited to the credit of the motor vehicle fund. The department may deliver with or without charge informational copies of maps, plans, specifications, and directions at such places as it may from time to time designate. [1984 c 7 § 168; 1971 c 36 § 1; 1965 ex.s. c 64 § 1; 1961 c 13 § 47.28.060. Prior: 1937 c 53 § 34; RRS § 6400-34.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.070 Form of bid—Data required—Requirements—Refusal to furnish form—Appeal. Bid proposals upon any construction or improvement of any state highway shall be made upon contract proposal form supplied by the department and in no other manner. The department shall, before furnishing any person, firm, or corporation desiring to bid upon any work for which a call for bid proposals has been published with a contract proposal 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 state highway, road, or other public work. The questionnaire and financial statement shall be sworn to before a notary public or other person authorized to take acknowledgment of deeds, and shall be submitted once a year and at such other times as the department may require. Whenever the department is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the department 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 proposal form, and any bid proposal of the person, firm, or corporation must be disregarded. In order to obtain a contract proposal form, a person, firm, or corporation shall have all of the following requirements:

- (1) Adequate financial resources or the ability to secure such resources;
- (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 is conclusive unless appeal therefrom to the superior court of Thurston county is taken within five days, which appeal shall be heard summarily within ten days after it is taken and on five days' notice thereof to the department. [1984 c 7 § 169; 1967 ex.s. c 145 § 39; 1961 c 13 § 47.28.070. Prior: 1937 c 53 § 35; RRS § 6400-35.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.080 Withdrawal of bids—New bids—Time fixed in call controls. Any person, firm, or corporation proposing a bid for the construction or improvement of any state highway in response to a call for bids published therefor may withdraw the bid proposal without forfeiture and without prejudice to the right of the bidder to file a new bid proposal before the time fixed for the opening of the bid proposals. The request for the withdrawal shall be made in writing, signed by the person proposing the bid or his duly authorized agent, and filed with the department before the time fixed for the opening of the bid proposals. No bid proposal may be considered that has not been filed with the department before the time fixed for the opening of bid proposals. In any provisions regarding the filing or withdrawing of bid proposals the time fixed for the opening of bid proposals in the call for bid proposals as published shall control without regard for the time when the bid proposals are actually opened. [1984 c 7 § 170; 1961 c 13 § 47.28.080. Prior: 1937 c 53 § 36; RRS § 6400-36.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.100 Contract and bond—Forfeiture and return of deposits—Rejection of all bids—Readvertisement. If the successful bidder fails to enter into the contract and furnish satisfactory bond as provided by law within twenty days from the award, exclusive of the day of the award, his deposit shall be forfeited to the state and deposited by the state treasurer to the credit of the motor vehicle fund, and the department may award the contract to the second lowest responsible bidder. If the second lowest responsible bidder fails to enter into the contract and furnish bond within twenty days after award to him, forfeiture of his deposit shall also be made, and the contract may be awarded to the third lowest responsible bidder, and in like manner until the contract and bond are executed by a responsible bidder to whom award is made, or further bid proposals are rejected, or the number of bid proposals are exhausted. If the contract is not executed or no contractor's bond provided within the time required, and there appear circumstances that are deemed to warrant an extension of time, the department may extend the time for execution of the contract or furnishing bond for not to exceed twenty additional days. After awarding the contract the deposits of unsuccessful bidders shall be returned, but the department may retain the deposit of the next lowest responsible bidder or bidders as it desires until such time as the contract is entered into and satisfactory bond is provided by the bidder to whom the award is ultimately made.

If in the opinion of the department the acceptance of the bid of the lowest responsible bidder or bidders, or on prior failure of the lowest responsible bidder or bidders the acceptance of the bid of the remaining lowest responsible bidder or bidders, will not be for the best interest of the state, it may reject all bids or all remaining bids and republish a call for bids in the same manner as for an original publication thereof. [1984 c 7 § 171; 1961 c 13 § 47.28.100. Prior: 1953 c 53 § 1; 1937 c 53 § 38; RRS § 6400-38.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.110 Sureties—Qualifications—Additional sureties. At any time and as often as it may be deemed necessary, the department may require any or all sureties or any surety company to appear and qualify themselves upon any contractor's bond. Whenever the surety or sureties upon any contractor's bond become insufficient or are deemed by the department to have become insufficient, the department may demand in writing that the contracting person, firm, or corporation furnish such further contractor's bond or bonds or additional surety in an amount not exceeding that originally required as may be deemed necessary considering the extent of the work remaining to be done upon the contract. No further payments may be made on the contract until such additional surety as is required is furnished. [1984 c 7 § 172; 1961 c 13 § 47.28.110. Prior: 1937 c 53 § 39; RRS § 6400–39.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.120 Actions for labor and materials—Limitation of action. Any contracting person, firm, or corporation performing any labor or furnishing any materials upon their contract or otherwise for public work or improvement under the direction of the department or any person claiming any right of action upon any such contract with the state of Washington or who claims a cause of action against the state of Washington arising out of any such contract must bring such suit in the proper court in Thurston county before the expiration of one hundred and eighty days from and after the final acceptance and the approval of the final estimate of such work by the department; otherwise the action is forever barred. [1984 c 7 § 173; 1961 c 13 § 47.28.120. Prior: 1937 c 53 § 40; RRS § 6400–40.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.28.140 Agreements to benefit or improve highways, roads, or streets, establish urban public transportation system—Labor or contract—Costs. When in the opinion of the governing authorities representing the department and any agency, instrumentality, municipal corporation, or political subdivision of the state of Washington, any highway, road, or street will be benefited or improved by constructing, reconstructing, locating, relocating, laying out, repairing, surveying, altering, improving, or maintaining, or by the establishment adjacent to, under, upon, within, or above any portion of any such highway, road, or street of an urban public transportation system, by either the department or any agency, instrumentality, municipal corporation, or political subdivision of the state, and it is in the public interest to do so, the authorities may enter into cooperative agreements wherein either agrees to perform the work and furnish the materials necessary and pay the cost thereof, including necessary engineering assistance, which costs and expenses shall be reimbursed by the party whose responsibility it was to do or perform the

work or improvement in the first instance. The work may be done by either day labor or contract, and the cooperative agreement between the parties shall provide for the method of reimbursement. In the case of some special benefit or improvement to a state highway derived from the construction of any public works project, including any urban public transportation system, the department may contribute to the cost thereof by making direct payment to the particular state department, agency, instrumentality, municipal corporation, or political subdivision on the basis of benefits received, but such payment shall be made only after a cooperative agreement has been entered into for a specified amount or on an actual cost basis prior to the commencement of the particular public works project. [1984 c 7 § 174; 1967 c 108 § 6; 1961 c 13 § 47.28.140. Prior: 1955 c 384 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.
Urban public transportation system defined: RCW 47.04.082.

47.28.170 Emergency protection and restoration of highways. (1) Whenever the commission finds that as a consequence of accident, natural disaster, or other emergency, an existing state highway is in jeopardy or is rendered impassible in one or both directions and the commission further finds that prompt reconstruction, repair, or other work is needed to preserve or restore the highway for public travel, the commission may authorize the department to obtain at least three written bids for the work without publishing a call for bids and award a contract forthwith to the lowest responsible bidder.

The department shall notify any association or organization of contractors filing a request to regularly receive notification. Notification to an association or organization of contractors shall include: (a) The location of the work to be done; (b) the general anticipated nature of the work to be done; and (c) the date determined by the department as reasonable in view of the nature of the work and emergent nature of the problem after which the department will not receive bids.

(2) Whenever the commission finds it necessary to protect a highway facility from imminent damage or to perform emergency work to reopen a highway facility, the commission may authorize the department to contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed thirty working days.

(3) When the engineer's estimate of the cost of work authorized in either subsections (1) or (2) of this section is less than one hundred thousand dollars, the secretary may make findings as provided hereinabove, and pursuant thereto the department may award contracts as authorized by this section.

(4) Any person, firm, or corporation awarded a contract for work must be prequalified pursuant to RCW 47.28.070 and may be required to furnish a bid deposit or performance bond. [1984 c 7 § 175; 1971 ex.s. c 89 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.32

OBSTRUCTIONS ON RIGHT OF WAY

Sections

47.32.010	Order to remove obstructions—Removal by state.
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47.32.150	Approach roads, other appurtenances—Permit.
47.32.160	Approach roads, other appurtenances—Rules— Construction, maintenance of approach roads.
47.32.170	Approach roads, other appurtenances—Removal of installations from right of way for default.

47.32.010 Order to remove obstructions—Removal by state. Whenever the department determines and orders that it is necessary for the convenience and safety of public travel and the use of (or construction, alteration, repair, improvement, or maintenance of) any state highway to have the full width of right of way of any such state highway or of any portion of the right of way of any such state highway free from any and all obstructions, encroachments, and occupancy, other than pole lines, pipe lines, or other structures maintained thereon for public or quasi-public utilities by virtue of a valid franchise, and causes due notice of the order to be given as provided by law, the obstructions, encroachments, and means of occupancy, and any structure, building, improvement, or other means of occupancy of any of the right of way of the state highway not removed within the time allowed by law shall become an unlawful property and may be confiscated, removed, and sold or destroyed by the state of Washington according to procedure as provided in this chapter, without any right in anyone to make any claim therefor, either by reason of the removal thereof or otherwise. It is unlawful for any person to keep, maintain, or occupy any such unlawful structure. [1984 c 7 § 176; 1961 c 13 § 47.32.010. Prior: 1937 c 53 § 68; RRS § 6400–68.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.020 Notice of order, contents, posting—Return. Whenever the department determines that the right of way of any state highway or any portion of the right of way of any state highway shall be made free from any and all obstructions, encroachments, and occupancy it shall forthwith cause to be posted, by a competent person eighteen years of age or over upon any and all structures, buildings, improvements, and other means of occupancy of the state highway or portion thereof, other than property of public or quasi-public utilities, by virtue of a valid franchise, a notice bearing a copy of the order and dated as of the date of posting, to all whom it may concern to vacate the right of way and to remove all property from the right of way within ten days after the posting of the notice, exclusive of the date of posting. The department shall also require the filing of duplicate

affidavits in proof of the postings, showing upon what structures, buildings, improvements, or other means of occupancy of the state highway or portions thereof, respectively, copies of the notice were posted and the date of each such posting, sworn to by the person making the posting. [1984 c 7 § 177; 1971 ex.s. c 292 § 46; 1961 c 13 § 47.32.020. Prior: 1937 c 53 § 69; RRS § 6400–69.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

47.32.030 Proceedings in rem authorized—Records certified. In case the property or any portion thereof described in the notice is not removed from the right of way within ten days after the date of the posting, exclusive of the date of posting, all such property upon the right of way of the state highway or portion thereof becomes unlawful, and the department shall commence proceedings in the name of the state of Washington for the removal thereof by court action. The department shall thereupon prepare two original copies of the order together with two copies each of the notice posted and of the affidavits in proof of posting thereof and duplicate copies of a certificate by the department describing with reasonable certainty and with due reference to the center line stationing of the state highway and to proper legal subdivisional points, each structure, building, improvement, encroachment, or other means of occupancy, other than pole lines, pipe lines, or other structures maintained for public and quasi-public utilities, on the state highway or portion thereof specified in the order that remain upon the right of way as aforesaid. Thereupon action shall be commenced in rem for the purpose of removal of all such unlawful property, in the superior court of the county in which the state highway or portion thereof containing the structures is situated, entitled and in the name of the state of Washington as plaintiff and describing each unlawful structure, building, improvement, encroachment, or other means of occupancy, which structures, buildings, improvements, encroachments, or other means of occupancy shall be briefly named as defendants. [1984 c 7 § 178; 1961 c 13 § 47.32.030. Prior: 1937 c 53 § 70; RRS § 6400–70; prior: 1925 ex.s. c 131 § 3; RRS § 6837–3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.040 Complaint, contents. The complaint shall, in such action, describe the property unlawfully remaining upon the right of way of the state highway or portion thereof with reasonable certainty by reference to the certificate of the department, which shall be attached to and filed with the complaint, and pray that an order be entered for the removal from the right of way of the state highway or portion thereof of all the described property unlawfully thereon and the disposal thereof. [1984 c 7 § 179; 1961 c 13 § 47.32.040. Prior: 1937 c 53 § 71; RRS § 6400–71; prior: 1925 ex.s. c 131 § 4; RRS § 6837–4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.060 Hearing—Findings—Order—

Appeal. At the time and place appointed for hearing upon the complaint, which hearing shall be by summary proceedings, if the court or judge thereof finds that due notice has been given by posting and publication and that the order of the department was duly made, and is further satisfied and finds that the state highway or portion thereof described is legally a state highway having the width of right of way specified in the order and that the structure, buildings, improvements, or other means of occupancy of the state highway or portion thereof as stated in the certificate of the department do in fact encroach, or that any portion thereof encroach, upon the state highway right of way, the court or judge thereof shall thereupon make and enter an order establishing that each of the structures, buildings, improvements, and other means of occupancy specified in the order is unlawfully maintained within the right of way and is subject to confiscation and sale and that they be forthwith confiscated, removed from the right of way, and sold, and providing that six days after the entry of the order, a writ shall issue from the court directed to the sheriff of the county, commanding the sheriff to seize and remove from the right of way of the state highway each such structure, building, improvement, or other means of occupancy specified in the order forthwith on receipt of a writ based on the order and to take and hold the property in his custody for a period of ten days, unless redelivered earlier as provided for by law, and if not then so redelivered to sell the property at public or private sale and to pay the proceeds thereof into the registry of the court within sixty days after the issuance of the writ, and further in such action, including costs of posting original notices of the department, the costs of posting and publishing notices of hearing as part thereof and any cost of removal, be paid by the clerk to the state treasurer and credited to the motor vehicle fund. The order shall be filed with the clerk of the court and recorded in the minutes of the court, and is final unless review thereof is taken to the supreme court of the state within five days after filing of the order. [1984 c 7 § 180; 1961 c 13 § 47.32.060. Prior: 1937 c 53 § 73; RRS § 6400-73; prior: 1925 ex.s. c 131 § 7; RRS § 6837-7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.100 Procedure when claimant wins or loses. If the claimant makes good the claimant's title to or right to possession of the property, upon payment into the registry of the court of the costs of service or posting of original notice issued by the department with respect to the property, the cost of posting notice of hearing in the court and such proportion of the cost of publication of the notice as the court may fix and direct to be entered and the clerk's fees of filing the affidavit and bond as a separate action and of entry of judgment therein at the amounts provided for in civil actions, judgment shall be entered restoring the property to the claimant without any confirmation of title as to any other claimant thereto, relieving the sheriff from necessity of selling the

property and making return thereon, and continuing the effect of the bond for a period of six years thereafter for the benefit of such adverse claimants to the property, if any, as may thereafter make claim to the property. If the claimant does not make good such claim of title to or right to possession of the property, judgment shall be rendered against the claimant and the sureties of the claimant for the value of the property as finally shown by the affidavit as above provided for, together with such fees for filing the affidavit and bond as a separate action and for entry of judgment therein and other costs and disbursements as taxed in any civil action including the statutory attorney fee as part thereof, for all of which execution may accordingly issue, and relieving the sheriff from the necessity of selling the property or making return thereon. [1984 c 7 § 181; 1961 c 13 § 47.32.100. Prior: 1937 c 53 § 77; RRS § 6400-77; prior: 1925 ex.s. c 131 § 11; RRS § 6837-11.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.110 Merchandising structures—Permit—

Removal. It is unlawful for any person to build, erect, establish, operate, maintain, or conduct along and upon the right of way of any state highway any platform, box, stand, or any other temporary or permanent device or structure used or to be used for the purpose of receiving, vending, or delivering any milk, milk cans, vegetables, fruits, merchandise, produce, or any other thing or commodity of any nature unless a permit therefor has first been obtained from the department. The department shall in each instance determine where any platform, box, stand, or any other temporary or permanent device or structure shall be permitted. Upon the existence of any such device or structure without a permit having been first obtained, it shall be considered an obstruction unlawfully upon the right of way of the state highway, and the department may proceed to effect its removal. [1984 c 7 § 182; 1961 c 13 § 47.32.110. Prior: 1937 c 53 § 78; RRS § 6400-78; 1927 c 309 § 48; RRS § 6362-48; 1923 c 181 § 10; RRS § 6358-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.120 Business places along highway. It is unlawful for any person to erect a structure or establishment or maintain a business, the nature of which requires the use by patrons or customers of property adjoining the structure or establishment unless the structure or establishment is located at a distance from the right of way of any state highway so that none of the right of way thereof is required for the use of the patrons or customers of the establishment. Any such structure erected or business maintained that makes use of or tends to invite patrons to use the right of way or any portion thereof of any state highway by occupying it while a patron is a public nuisance, and the department may fence the right of way of the state highway to prevent such unauthorized use thereof. [1984 c 7 § 183; 1961 c 13 § 47.32.120. Prior: 1937 c 53 § 79; RRS § 6400-79.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.130 Dangerous objects and structures as nuisances—Logs—Abatement—Removal. (1) Whenever there exists upon the right of way of any state highway or off the right of way thereof in sufficiently close proximity thereto, any structure, device, or natural or artificial thing that threatens or endangers the state highway or portion thereof, or that tends to endanger persons traveling thereon, or obstructs or tends to obstruct or constitutes a hazard to vehicles or persons traveling thereon, the structure, device, or natural or artificial thing is declared to be a public nuisance, and the department is empowered to take such action as may be necessary to effect its abatement. Any such structure, device, or natural or artificial thing considered by the department to be immediately or eminently dangerous to travel upon a state highway may be forthwith removed, and the removal in no event constitutes a breach of the peace or trespass.

(2) Logs dumped on any state highway roadway or in any state highway drainage ditch due to equipment failure or for any other reason shall be removed immediately. Logs remaining within the state highway right of way for a period of thirty days shall be confiscated and removed or disposed of as directed by the department. [1984 c 7 § 184; 1961 c 13 § 47.32.130. Prior: 1947 c 206 § 3; 1937 c 53 § 80; Rem. Supp. 1947 § 6400–80.]

Severability—1984 c 7: See note following RCW 47.01.141.

Obstructing highway, public nuisance: RCW 9.66.010.

Placing dangerous substances or devices on highway: RCW 9.66.050, 70.93.060, 46.61.645.

47.32.150 Approach roads, other appurtenances—Permit. No person, firm, or corporation may be permitted to build or construct on state highway rights of way any approach road or any other facility, thing, or appurtenance not heretofore permitted by law, without first obtaining written permission from the department. [1984 c 7 § 185; 1961 c 13 § 47.32.150. Prior: 1947 c 201 § 1; Rem. Supp. 1947 § 6402–50.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.160 Approach roads, other appurtenances—Rules—Construction, maintenance of approach roads. The department is hereby authorized and empowered at its discretion to adopt reasonable rules and issue permits, not inconsistent with previous laws in effect, for the construction of any approach road, facility, thing, or appurtenance, upon state highway rights of way. The rules and permits may include, but need not be limited to, provisions for construction of culverts under approaches, requirements as to depth of fills over culverts, and requirements for such drainage facilities insofar as the department deems any of such provisions or requirements to be necessary, and any permit issued may contain such terms and conditions as may be prescribed. All such construction shall be under the supervision of the department and at the expense of the applicant. After completion of the construction of the particular approach road, facility, thing, or appurtenance, it shall be maintained at the expense of the applicant and in accordance with the directions of the department. [1984 c

7 § 186; 1961 c 13 § 47.32.160. Prior: 1947 c 201 § 2; Rem. Supp. 1947 § 6402–51.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.32.170 Approach roads, other appurtenances—Removal of installations from right of way for default. Upon failure of the applicant to construct or maintain the particular approach road, facility, thing, or appurtenance in accordance with the conditions of the permit and in accordance with the rules of the department, the department may, after the expiration of thirty days following transmittal of a written notice to the applicant, remove all installations upon the right of way at the expense of the applicant, which expense may be recovered from the applicant by the department for the state in any court of competent jurisdiction. [1984 c 7 § 187; 1961 c 13 § 47.32.170. Prior: 1947 c 201 § 3; Rem. Supp. 1947 § 6402–52.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.36

TRAFFIC CONTROL DEVICES

Sections

- 47.36.010 Restoration of United States survey markers.
- 47.36.040 Furnished by department, paid for by counties and cities.
- 47.36.050 Duty to erect traffic devices on state highways and railroad crossings.
- 47.36.053 General duty to place and maintain traffic devices on state highways and railroad crossings.
- 47.36.060 Traffic devices on county roads and city streets.
- 47.36.070 Failure to erect signs, procedure.
- 47.36.080 Signs at railroad crossings.
- 47.36.090 Cooperation with United States on road markers.
- 47.36.095 Establishment of continuing system for designation of highways—Signs.
- 47.36.097 Establishment of continuing system for designation of highways—Filing designations with secretary of state and county auditors.
- 47.36.100 Directional, caution, and stop signs.
- 47.36.110 Stop signs, "Yield" signs—Duties of persons using highway.
- 47.36.120 City limit signs.
- 47.36.180 Forbidden devices—Penalty.
- 47.36.200 Signs or flagmen at thoroughfare work sites.
- 47.36.250 Dangerous road conditions requiring special tires, chains, or traction equipment—Signs or devices—Penalty.

47.36.010 Restoration of United States survey markers. The department shall fix permanent monuments at the original positions of all United States government monuments at township corners, section corners, quarter section corners, meander corners, and witness markers, as originally established by the United States government survey whenever any such original monuments or markers fall within the right of way of any state highway, and aid in the reestablishment of any such corners, monuments, or markers destroyed or obliterated by the construction of any state highway by permitting inspection of the records in the department's office. [1984 c 7 § 188; 1961 c 13 § 47.36.010. Prior: 1937 c 53 § 42; RRS § 6400–42; 1931 c 117 § 1; RRS § 6830–1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.040 Furnished by department, paid for by counties and cities. The department, upon written request, shall cause to be manufactured, painted, and printed, and shall furnish to any county legislative authority or the governing body of any incorporated city or town, directional signboards, guide boards, and posts of the uniform state standard of color, shape, and design for the erection and maintenance thereof by the county legislative authority or the governing body of any incorporated city or town upon the roads and streets within their respective jurisdictions. The directional signboards, guide boards, and posts shall be manufactured and furnished, as aforesaid, pursuant to written request showing the number of signs desired and the directional or guide information to be printed thereon. The department shall fix a charge for each signboard, guide board, and post manufactured and furnished as aforesaid, based upon the ultimate cost of the operations to the department, and the county legislative authority, from the county road fund, and the governing body of any incorporated city or town, from the street fund, shall pay the charges so fixed for all signboards, guide boards, and posts so received from the department. [1984 c 7 § 189; 1961 c 13 § 47.36.040. Prior: 1945 c 178 § 1, part; 1937 c 53 § 48, part; Rem. Supp. 1945 § 6400-48, part; prior: 1931 c 118 § 1, part; RRS § 6308-1, part; 1923 c 102 § 1, part; 1917 c 78 § 1, part; RRS § 6303, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.050 Duty to erect traffic devices on state highways and railroad crossings. The department shall erect and maintain upon every state highway in the state of Washington suitable and proper signs, signals, signboards, guideposts, and other traffic devices according to the adopted and designated state standard of design, erection, and location, and in the manner required by law. The department shall erect and maintain upon all state highways appropriate stop signs, warning signs, and school signs. Any person, firm, corporation, or municipal corporation, building, owning, controlling, or operating a railroad that crosses any state highway at grade shall construct, erect, and maintain at or near each point of crossing, or at such point or points as will meet the approval of the department, a sign of the type known as the saw buck crossing sign with the lettering "railroad crossing" inscribed thereon and also a suitable inscription indicating the number of tracks. The sign must be of standard design that will comply with the plans and specifications furnished by the department. Additional safety devices and signs may be installed at any time when required by the utilities and transportation commission as provided by laws regulating railroad-highway grade crossings. [1984 c 7 § 190; 1961 c 13 § 47.36.050. Prior: 1937 c 53 § 49; RRS § 6400-49; prior: 1931 c 118 § 1, part; RRS § 6308-1, part; 1923 c 102 § 1, part; RRS § 6303, part; 1919 c 146 § 1; 1917 c 78 § 2; RRS § 6304. FORMER PART OF SECTION: 1937 c 53 § 51 now in RCW 47.36.053.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.053 General duty to place and maintain traffic devices on state highways and railroad crossings. The department shall place and maintain such traffic devices conforming to the manual and specifications adopted upon all state highways as it deems necessary to carry out the provisions of this title or to regulate, warn, or guide traffic. [1984 c 7 § 191; 1961 c 13 § 47.36.053. Prior: 1937 c 53 § 51; RRS § 6400-51. Formerly RCW 47.36.050, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.060 Traffic devices on county roads and city streets. Local authorities in their respective jurisdictions shall place and maintain such traffic devices upon public highways under their jurisdiction as are necessary to carry out the provisions of the law or local traffic ordinances or to regulate, warn, or guide traffic. Cities and towns, which as used in this section mean cities and towns having a population of over fifteen thousand according to the latest federal census, shall adequately equip with traffic devices, streets that are designated as forming a part of the route of a primary or secondary state highway and streets which constitute connecting roads and secondary state highways to such cities and towns. The traffic devices, signs, signals, and markers shall comply with the uniform state standard for the manufacture, display, direction, and location thereof as designated by the department. The design, location, erection, and operation of traffic devices and traffic control signals upon such city or town streets constituting either the route of a primary or secondary state highway to the city or town or connecting streets to the primary or secondary state highways through the city or town shall be under the direction of the department, and if the city or town fails to comply with any such directions, the department shall provide for the design, location, erection, or operation thereof, and any cost incurred therefor shall be charged to and paid from any funds in the motor vehicle fund of the state that have accrued or may accrue to the credit of the city or town, and the state treasurer shall issue warrants therefor upon vouchers submitted and approved by the department. [1984 c 7 § 192; 1961 c 13 § 47.36.060. Prior: 1955 c 179 § 4; 1939 c 81 § 1; 1937 c 53 § 52; RRS § 6400-52.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.070 Failure to erect signs, procedure. Whenever any person, firm, corporation, municipal corporation, or local authorities responsible for the erection and maintenance, or either, of signs at any railroad crossing or point of danger upon any state highway fails, neglects, or refuses to erect and maintain, or either, the sign or signs as required by law at highway-railroad grade crossings, the utilities and transportation commission shall upon complaint of the department or upon complaint of any party interested, or upon its own motion, enter upon a hearing in the manner provided by law for hearings with respect to railroad-highway grade crossings and make and enforce proper orders for the erection

or maintenance of the signs, or both. [1984 c 7 § 193; 1961 c 13 § 47.36.070. Prior: 1937 c 53 § 54; RRS § 6400-54.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.080 Signs at railroad crossings. Wherever it is considered necessary or convenient the department may erect approach and warning signs upon the approach of any state highway to a highway-railroad grade crossing situated at a sufficient distance therefrom to make the warning effective. The department may further provide such additional or other highway-railroad grade crossing markings as may be considered to serve the interests of highway safety. [1984 c 7 § 194; 1961 c 13 § 47.36.080. Prior: 1937 c 53 § 57; RRS § 6400-57.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.090 Cooperation with United States on road markers. Standard federal road markers shall be placed on state highways in the manner requested by the department of transportation of the United States. The department of transportation of the state of Washington is authorized and empowered to cooperate with the several states and with the federal government in promoting, formulating, and adopting a standard and uniform system of numbering or designating state highways of an interstate character and in promoting, formulating, and adopting uniform and standard specifications for the manufacture, display, erection, and location of road markers and signs, for the information, direction, and control of persons traveling upon public highways. [1984 c 7 § 195; 1961 c 13 § 47.36.090. Prior: 1937 c 53 § 55; RRS § 6400-55; prior: 1925 c 24 § 1; RRS § 6303-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.095 Establishment of continuing system for designation of highways—Signs. The department is hereby authorized to establish a continuing system for the designating of state highways and branches or portions thereof, heretofore established by the legislature of the state of Washington, to give designations to such state highways and branches, or portions thereof, in accord with that system, and to install signs in accord therewith on such state highways and branches, or portions thereof. The system may be changed from time to time and shall be extended to new state highways and branches, or portions thereof, as they are hereafter established by the legislature. [1984 c 7 § 196; 1967 ex.s. c 145 § 43; 1963 c 24 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Classification of highways: RCW 47.04.020.

47.36.097 Establishment of continuing system for designation of highways—Filing designations with secretary of state and county auditors. Designations or redesignations assigned under the system by the department pursuant to RCW 47.36.095 as each is made, shall be filed with the secretary of state and with the auditor of each county. Thereafter such highways

shall be so designated for all purposes. [1984 c 7 § 197; 1967 ex.s. c 145 § 46.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.100 Directional, caution, and stop signs. Directional signs showing distance and direction to points of importance may be placed at all crossings and intersections of primary and secondary state highways. The department may place such directional signs as it deems necessary upon any city streets designated by it as forming a part of the route of any primary or secondary state highway through any incorporated city or town. Caution and warning signs or signals shall be placed wherever practicable on all primary and secondary state highways in a manner provided by law. Stop signs shall be placed, erected, and maintained by the department as follows: Upon all county roads at the point of intersection with any arterial primary or secondary state highway; upon all primary and secondary state highways at the point of intersection with any county road that has been designated by the department as an arterial having preference over the traffic on the state highway; and upon at least one state highway at the intersection of two state highways. [1984 c 7 § 198; 1967 ex.s. c 145 § 38; 1961 c 13 § 47.36.100. Prior: 1947 c 206 § 1; 1937 c 53 § 56; Rem. Supp. 1947 § 6400-56.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.110 Stop signs, "Yield" signs—Duties of persons using highway. In order to provide safety at intersections on the state highway system, the department may require persons traveling upon any portion of such highway to stop before entering the intersection. For this purpose there may be erected a standard stop sign as prescribed in the state department of transportation's "Manual on Uniform Traffic Control Devices for Streets and Highways." All persons traveling upon the highway shall come to a complete stop at such a sign, and the appearance of any sign so located is sufficient warning to a person that he is required to stop. A person stopping at such a sign shall proceed through that portion of the highway in a careful manner and at a reasonable rate of speed not to exceed twenty miles per hour. It is unlawful to fail to comply with the directions of any such stop sign. When the findings of a traffic engineering study show that the condition of an intersection is such that vehicles may safely enter the major artery without stopping, the department or local authorities in their respective jurisdictions shall install and maintain a "Yield" sign. [1984 c 7 § 199; 1963 ex.s. c 3 § 49; 1961 c 13 § 47.36.110. Prior: 1955 c 146 § 6; 1937 c 53 § 59; RRS § 6400-59.]

Severability—1984 c 7: See note following RCW 47.01.141.

Arterial highways designated—Stopping on entering: RCW 46.61.195.

47.36.120 City limit signs. The department shall erect wherever it deems necessary upon state highways at or near their point of entrance into cities and towns, signs of the standard design designating the city or town

limits of the cities or towns. [1984 c 7 § 200; 1961 c 13 § 47.36.120. Prior: 1937 c 53 § 58; RRS § 6400–58.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.180 Forbidden devices—Penalty. It is unlawful to erect or maintain at or near a city street, county road, or state highway any structure, sign, or device:

(1) Visible from a city street, county road, or state highway and simulating any directional, warning, or danger sign or light likely to be mistaken for such a sign or bearing any such words as "danger," "stop," "slow," "turn," or similar words, figures, or directions likely to be construed as giving warning to traffic;

(2) Visible from a city street, county road, or state highway and displaying any red, green, blue, or yellow light or intermittent or blinking light or rotating light identical or similar in size, shape, and color to that used on any emergency vehicle or road equipment or any light otherwise likely to be mistaken for a warning, danger, directional, or traffic control signal or sign;

(3) Visible from a city street, county road, or state highway and displaying any lights tending to blind persons operating vehicles upon the highway, city street, or county road, or any glaring light, or any light likely to be mistaken for a vehicle upon the highway or otherwise to be so mistaken as to constitute a danger; or

(4) Visible from a city street, county road, or state highway and flooding or intending to flood or directed across the roadway of the highway with a directed beam or diffused light, whether or not the flood light is shielded against directing its flood beam toward approaching traffic on the highway, city street, or county road.

Any structure or device erected or maintained contrary to the provisions of this section is a public nuisance, and the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall notify the owner thereof that it constitutes a public nuisance and must be removed, and if the owner fails to do so, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town may abate the nuisance.

If the owner fails to remove any such structure or device within fifteen days after being notified to remove the structure or device, he is guilty of a misdemeanor. [1984 c 7 § 201; 1961 c 13 § 47.36.180. Prior: 1957 c 204 § 1; 1937 c 53 § 62; RRS § 6400–62.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.200 Signs or flagmen at thoroughfare work sites. When construction, repair, or maintenance work is conducted on or adjacent to a public highway, county road, street, bridge, or other thoroughfare commonly traveled and when the work interferes with the normal and established mode of travel on the highway, county road, street, bridge, or thoroughfare, the location shall be properly posted by prominently displayed signs or flagmen or both. Signs used for posting in such an area

shall be consistent with the provisions found in the state of Washington "Manual on Uniform Traffic Control Devices for Streets and Highways" obtainable from the department of transportation. [1984 c 7 § 202; 1961 c 13 § 47.36.200. Prior: 1957 c 95 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.36.250 Dangerous road conditions requiring special tires, chains, or traction equipment—Signs or devices—Penalty. If the department or its delegate determines at any time for any part of the public highway system that the unsafe conditions of the roadway require particular tires, tire chains, or traction equipment in addition to or beyond the ordinary pneumatic rubber tires, the department may establish the following recommendations or requirements with respect to the use of such equipment for all persons using such public highway:

(1) Dangerous road conditions, chains or other approved traction devices recommended.

(2) Dangerous road conditions, chains or other approved traction devices required.

(3) Dangerous road conditions, chains required.

Any equipment that may be required by this section shall be approved by the state commission on equipment as authorized under RCW 46.37.420.

The department shall place and maintain signs and other traffic control devices on the public highways that indicate the tire, tire chain, or traction equipment recommendation or requirement determined under this section. Such signs or traffic control devices shall in no event prohibit the use of studded tires from November 1st to April 1st, but when the department determines that chains are required and that no other traction equipment will suffice, the requirement is applicable to all types of tires including studded tires. The signs or traffic control devices may specify different recommendations or requirements for four wheel drive vehicles in gear.

Failure to obey a requirement indicated by a sign or other traffic control device placed or maintained under this section is a misdemeanor. [1984 c 7 § 203; 1975 1st ex.s. c 255 § 1; 1969 ex.s. c 7 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Restrictions as to tire equipment, metal studs: RCW 46.37.420.

Chapter 47.38

ROADSIDE AREAS—SAFETY REST AREAS

Sections

47.38.010	Rules governing use and control of rest areas, historic sites, viewpoints, etc.
47.38.020	Limitations on use of rest areas.
47.38.040	Information centers.

47.38.010 Rules governing use and control of rest areas, historic sites, viewpoints, etc. Pursuant to chapter 34.04 RCW, the department shall adopt rules consistent with the safety of the traveling public to govern the use and control of rest areas and other areas as designated in

RCW 47.12.250. Nothing herein may be construed as limiting the powers of the department as provided by law. [1984 c 7 § 204; 1967 ex.s. c 145 § 29.]

Severability—1984 c 7: See note following RCW 47.01.141.

Roadside areas—Safety rest areas, provisions of scenic and recreational highway act concerning: Chapter 47.39 RCW.

47.38.020 Limitations on use of rest areas. Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any vehicle, including but not limited to trailers, campers, and motorcycles, for more than eight hours, or for any person or persons to camp or to maintain a camp, tent, or other sleeping accommodation or facility, in any rest area or safety rest area within the limits of the right of way of interstate highways or other state highways or in other areas of state or interstate highways as designated in RCW 47.12.250. This section does not apply to disabled vehicles. [1984 c 7 § 205; 1967 ex.s. c 145 § 30.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.38.040 Information centers. In order to provide information in the specific interest of the traveling public, the department may establish information centers at safety rest areas and permit maps, informational directories, and advertising pamphlets to be made available there for the purpose of informing the public of places of interest within the state and providing such other information as the department deems desirable. [1984 c 7 § 206; 1967 ex.s. c 145 § 32.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.39

SCENIC AND RECREATIONAL HIGHWAY ACT OF 1967

Sections

47.39.030	Development and maintenance of system by department of transportation and parks and recreation commission—Allocation of costs.
47.39.040	Planning and design standards to be established by the planning and community affairs agency.
47.39.060	Designation of system on maps or other descriptive material.

47.39.030 Development and maintenance of system by department of transportation and parks and recreation commission—Allocation of costs. (1) The department shall pay from motor vehicle funds appropriated for construction of state highways, the following costs of developing and constructing scenic and recreational highways: (a) Acquisition of the right of way necessary for state highway purposes; (b) construction of the portion of the highway designed primarily for motor vehicle travel; (c) exit and entrance roadways providing access to scenic observation points; (d) safety rest areas; (e) roadside landscaping within the portion of the highway right of way acquired by the department for state highway purposes; (f) the uniform signs and markers designating the various features and facilities of the scenic

and recreational highways; and (g) any additional costs of constructing and developing the scenic and recreational highways, including property acquisition adjacent to highways as authorized by RCW 47.12.250, for which the department shall receive reimbursement from the federal government or any other source.

(2) The parks and recreation commission shall pay the costs of developing and constructing the scenic and recreational highways not provided for in subsection (1) of this section from any funds appropriated for such purposes.

(3) The costs of maintaining the scenic and recreational highway system shall be allocated between the department and the parks and recreation commission in the same manner that costs of developing and constructing such highways are allocated in subsections (1) and (2) of this section. [1984 c 7 § 207; 1967 ex.s. c 85 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

Safety rest areas: Chapter 47.38 RCW.

47.39.040 Planning and design standards to be established by the planning and community affairs agency. The establishment of planning and design standards for items provided for in RCW 47.39.050 shall be coordinated by the state *planning and community affairs agency. The department of transportation, parks and recreation commission, and any other departments or commissions whose interests are affected shall prepare, submit, and file with the state *planning and community affairs agency standards relating to the scenic and recreational highway system. If varying planning and design standards are filed, the state *planning and community affairs agency shall consult with the submitting agencies on the merits of the several proposals and, based upon such consultation, establish a set of standards. Pursuant to the planning and design standards so established, the department of transportation and the parks and recreation commission shall develop the highways and areas adjacent thereto to accomplish the purposes of this chapter, but the department shall retain exclusive authority over the highway right of way.

Responsibility for construction and maintenance is hereby established between the department and the parks and recreation commission with the department responsible for activities financed with funds provided for under RCW 47.39.030(1) and the parks and recreation commission responsible for activities financed from other sources of funds. By mutual consent, responsibility for development and/or maintenance may be transferred between the two agencies. [1984 c 7 § 208; 1967 ex.s. c 85 § 4.]

***Reviser's note:** "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

Severability—1984 c 7: See note following RCW 47.01.141.

Department of community development: Chapter 43.63A RCW.

47.39.060 Designation of system on maps or other descriptive material. The department and the parks and recreation commission shall on any maps, or in any relevant descriptive material they may prepare at state expense, include reference to those portions of highways

designated in RCW 47.39.020 by appropriate color or code designation. [1984 c 7 § 209; 1967 ex.s. c 85 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.40 ROADSIDE IMPROVEMENT AND BEAUTIFICATION

Sections

47.40.020	Use of funds authorized.
47.40.030	Permit to private persons.
47.40.050	Survey—Report—Permit.
47.40.060	Agreement to maintain project.
47.40.070	Damaging project unlawful.
47.40.090	Glass bottles and containers along highways—Collection and removal.

47.40.020 Use of funds authorized. Whenever funds are available for the planting or cultivation of any shrubs, trees, hedges, or other domestic or native ornamental growth, the improvement of roadside facilities and view points, the correction of unsightly conditions upon the right of way of any state highway, and for roadside development and beautification, the department is empowered to expend such funds, either independently or in conjunction with the funds of any county, political subdivision, or any person, firm, corporation, association, or organization. [1984 c 7 § 210; 1961 c 13 § 47.40.020. Prior: 1937 c 53 § 89; RRS § 6400–89.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.40.030 Permit to private persons. Any person, firm, corporation, association, or organization owning lands abutting upon any state highway and desiring to plant, cultivate, and grow any hedge, shade trees, or ornamental trees or shrubs along the right of way thereof, or to clear and cultivate a portion of the state highway right of way for the purpose of growing crops and destroying noxious weeds, or any person, firm, corporation, association, or organization interested in public improvement and desiring to improve and beautify any state highway right of way or any portion thereof by planting, cultivating, or growing any hedge or shade or ornamental trees or cultivate along or upon the right of way thereof, may upon application to the department, be granted a permit therefor as provided by law. [1984 c 7 § 211; 1961 c 13 § 47.40.030. Prior: 1937 c 53 § 90; RRS § 6400–90; prior: 1927 c 242 § 1; RRS § 6437–1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.40.050 Survey—Report—Permit. Upon the filing of such application, the department shall cause a survey of the state highway to be made with reference to the application and a report of the findings and recommendations as to the granting of the permit, and if it appears to the satisfaction of the department that the use of a portion of the state highway for the purpose set out in the application will not interfere with the use of the state highway for public travel and will beautify and improve the state highway, a permit may be granted and

issued to the applicant to plant, cultivate, and grow any hedge, shade or ornamental trees, shrubbery, or crops, or make such improvement along or upon the right of way of such portion of the state highway as is definitely described in the permit, and to construct and maintain such temporary and substantial fence on and along the portion of the right of way of the state highway described in the permit as is specified in the permit. The permit shall specify the exact location of all hedges, shade or ornamental trees, or shrubbery to be planted and grown, or the area to be cultivated under the permit, or the area to be improved to which specified location the person, firm, corporation, association, or organization receiving the permit shall specifically conform. The department may in its discretion refuse to issue the permit, and any such permit that is granted is revocable at the will of the department and nothing in this title may be construed as in anywise affecting the title of the state to the lands included in the state highway, or the right to use the lands for state highway purposes, or to remove or destroy any of such hedges, trees, shrubbery, or crops for the purpose of construction, alteration, repair, improvement, or maintenance of the state highway, or for any other purpose and at any time. [1984 c 7 § 212; 1961 c 13 § 47.40.050. Prior: 1937 c 53 § 92; RRS § 6400–92; prior: 1927 c 242 § 3, part; RRS § 6437, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.40.060 Agreement to maintain project. If any such permit is granted, the department shall enter into an agreement with the person, firm, corporation, association, or organization agreeing that such roadside development or beautification shall be maintained and kept up by the state through the department or by the person, firm, corporation, association, or organization. If any such person, firm, corporation, association, or organization so agreeing fails or neglects to maintain the roadside development or beautification, the department is empowered to do so, and the expense thereof shall be a charge against the person, firm, corporation, association, or organization. [1984 c 7 § 213; 1961 c 13 § 47.40.060. Prior: 1937 c 53 § 93; RRS § 6400–93; prior: 1927 c 242 § 3, part; RRS § 6437–3, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.40.070 Damaging project unlawful. It is unlawful for any person to injure, destroy, or remove any hedge, shade or ornamental trees, shrubbery, or crops, planted, cultivated, and grown or improvement made upon or along any portion of any state highway under permit from the department or otherwise, or to injure, destroy, or remove any fence erected under any such permit or otherwise. However, nothing in this section may be construed to prevent any person with the department to do so or the officers of the state charged with the duty of constructing and maintaining any such state highway, from removing any hedges, trees, shrubbery, or crops planted or improvements or fences built under permit, where in their judgment they interfere with or are detrimental to, the use of the state highway for public travel,

or such removal is necessary for the construction, alteration, repair, improvement, or maintenance of the state highway. [1984 c 7 § 214; 1961 c 13 § 47.40.070. Prior: 1937 c 53 § 94; RRS § 6400-94; prior: 1927 c 242 § 4; RRS § 6437-4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.40.090 Glass bottles and containers along highways—Collection and removal. The department and any other governmental subdivision shall, with the staff, equipment, and material under their control, or by contract with others, take all necessary actions to collect and remove any or all glass bottles or glass containers along the right of way of any public road or public highway. [1984 c 7 § 215; 1969 ex.s. c 281 § 48.]

Severability—1984 c 7: See note following RCW 47.01.141.

Deposit of unwholesome substance: RCW 9.66.050.

Removal of glass after accident: RCW 46.61.645.

Throwing glass on highway: RCW 70.93.060, 46.61.645.

Chapter 47.41

JUNKYARDS ADJACENT TO INTERSTATE AND PRIMARY HIGHWAYS

Sections

47.41.020	Definitions.
47.41.030	Junkyards adjacent to highways prohibited— Exceptions.
47.41.040	Screening feasibility determination—Notice—Acquisition of property by department—Screening or removal of junkyard.
47.41.050	Administrative rules—Review of action.
47.41.070	Violations—Penalty—Abatement as public nuisance.
47.41.080	Agreements with United States secretary of transportation.

47.41.020 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(2) "Automobile graveyard" means any establishment or place of business that is maintained, used, or operated by storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(3) "Junkyard" means an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard, and the term includes garbage dumps and sanitary fills.

(4) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated or as may hereafter be so designated by the department and approved by the United States secretary of transportation under Title 23 United States Code.

(5) "Federal-aid primary system" means that portion of connected main highways as officially designated or

as may hereafter be so designated by the department and approved by the United States secretary of transportation as the federal-aid primary system pursuant to the provisions of Title 23 United States Code.

(6) "Department" means the Washington state department of transportation. [1984 c 7 § 216; 1971 ex.s. c 101 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.41.030 Junkyards adjacent to highways prohibited—Exceptions. No person may establish, operate, or maintain a junkyard any portion of which is within one thousand feet of the nearest edge of the right of way of any interstate or federal-aid primary highway, except the following:

(1) Those which are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the system or otherwise removed from sight;

(2) Those located within areas which are zoned for industrial use under authority of law;

(3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by rules adopted by the department and approved by the United States secretary of transportation; and

(4) Those which are not visible from the main-traveled way of the system. [1984 c 7 § 217; 1971 ex.s. c 101 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.41.040 Screening feasibility determination—Notice—Acquisition of property by department—Screening or removal of junkyard. Before July 1, 1971, the department shall determine whether or not the topography of the land adjoining the highway will permit adequate screening of any junkyard lawfully in existence located outside of a zoned industrial area or an unzoned industrial area as defined under RCW 47.41.030 on August 9, 1971, that is within one thousand feet of the nearest edge of the right of way and visible from the main traveled way of any highway on the interstate and primary system and whether screening of the junkyard would be economically feasible. Within thirty days thereafter the department shall notify by certified mail the record owner of the land upon which the junkyard is located, or the operator thereof, of its determination.

If it is economically feasible to screen the junkyard, the department shall screen the junkyard so that it will not be visible from the main-traveled way of the highway. The department is authorized to acquire by gift, purchase, exchange, or condemnation such lands or interest in lands as may be required for these purposes.

If it is not economically feasible to screen the junkyard, the department shall acquire by purchase, gift, or condemnation an interest in the real property used for junkyard purposes that is visible from the main traveled way of the highway, restricting any owner of the remaining interest to use of the real estate for purposes other than a junkyard. In addition to compensation for

the real property interest, the operator of a junkyard shall receive the actual reasonable expenses in moving his business personal property to a location within the same general area where a junkyard may be lawfully established, operated, and maintained. This section shall be interpreted as being in addition to all other rights and remedies of a junkyard owner or operator and shall not be interpreted as a limitation on or alteration of the law of compensation in eminent domain. [1984 c 7 § 218; 1971 ex.s. c 101 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.41.050 Administrative rules—Review of action.

The department shall adopt rules for the administration of this chapter consistent with the policy of this chapter and the national policy set forth in 23 U.S.C. Sec. 136, and the regulations promulgated thereunder by the United States secretary of transportation. Proceedings for review of any action taken by the department pursuant to this chapter shall be instituted by filing a petition only in the superior court of Thurston county. [1984 c 7 § 219; 1971 ex.s. c 101 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.41.070 Violations—Penalty—Abatement as public nuisance. If the owner of the land upon which any such junkyard is located, or the operator thereof, as the case may be, fails to comply with the notice or remove any such junk within the time provided in this chapter after being so notified, he is guilty of a misdemeanor. In addition to the penalties imposed by law upon conviction, an order may be entered compelling compliance with this chapter. Each day the junkyard is maintained in a manner so as not to comply with this chapter constitutes a separate offense.

If the operator of the junkyard or the owner of the property upon which it is located, as the case may be, is not found or refuses receipt of the notice, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall post the property upon which it is located with a notice that the junkyard constitutes a public nuisance and that the junk thereon must be removed as provided in this chapter. If the notice is not complied with, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall abate the nuisance and remove the junk, and for that purpose may enter upon private property without incurring liability for doing so. [1984 c 7 § 220; 1971 ex.s. c 101 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.41.080 Agreements with United States secretary of transportation. The department is authorized to enter into agreements with the United States secretary of transportation as provided in Title 23 United States Code, relating to the control of junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the state to comply with the terms of the agreement. [1984 c 7 § 221; 1971 ex.s. c 101 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.42

HIGHWAY ADVERTISING CONTROL ACT— SCENIC VISTAS ACT

Sections	
47.42.020	Definitions.
47.42.046	Specific information panels within right of way of interstate highway system—"Gas," "Food," or "Lodging"—Directional information—Individual business signs.
47.42.047	Specific information panels within portions of right of way of primary and scenic systems—"Gas," "Food," "Recreation," "Lodging"—Directional information—Individual business signs.
47.42.055	Roadside area information panels or displays.
47.42.060	Rules for signs visible from interstate and scenic systems—Judicial review.
47.42.080	Prohibited signs a public nuisance—Procedure for abatement—Penalty.
47.42.090	Revocation of permit.
47.42.103	Compensation for removal of signs—Action to determine amount of compensation—Payment—State's share.
47.42.104	Compensation for removal of signs—Federal share—Acceptance.
47.42.110	Agreements to secure federal aid.
47.42.120	Permits—Fees—Renewal—Permissible acts—Revocation.
47.42.130	Permit identification number—Permittee's name and number on signs—Presumption of noncompliance.

47.42.020 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Department" means the Washington state department of transportation.

(2) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(3) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of title 23, United States Code.

(4) "Maintain" means to allow to exist.

(5) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual or individuals.

(6) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of title 23, United States Code.

(7) "Scenic system" means (a) any state highway within any public park, federal forest area, public beach, public recreation area, or national monument, (b) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system, or (c) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in RCW 47.42.025.

(8) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway.

(9) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned by a county or municipal code, that area occupied by three or more separate and distinct commercial or industrial activities, or any combination thereof, within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which the activities are located. Measurements shall be along or parallel to the edge of the main traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;

(f) Activities conducted in a building principally used as a residence.

If any commercial or industrial activity that has been used in defining or delineating an unzoned area ceases to operate for a period of six continuous months, any signs located within the former unzoned area become nonconforming and shall not be maintained by any person.

(10) "Specific information panel" means a panel, rectangular in shape, located in the same manner as other official traffic signs readable from the main traveled ways, and consisting of:

(a) The words "GAS," "FOOD," or "LODGING" and directional information; and

(b) One or more individual business signs mounted on the panel.

(11) "Business sign" means a separately attached sign mounted on the specific information panel or roadside area information panel to show the brand or trademark and name, or both, of the motorist service available on the crossroad at or near the interchange. Nationally, regionally, or locally known commercial symbols or trademarks for service stations, restaurants, and motels shall be used when applicable. The brand or trademark identification symbol used on the business sign shall be reproduced with the colors and general shape consistent with customary use. Any messages, trademarks, or brand symbols which interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal, or device are prohibited.

(12) "Roadside area information panel or display" means a panel or display located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with information in the specific interest of the traveling public. [1984 c 7 § 222; 1977 ex.s. c 258 § 1; 1974 ex.s. c 80 § 1; 1971 ex.s. c 62 § 1; 1961 c 96 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.046 Specific information panels within right of way of interstate highway system—"Gas," "Food," or "Lodging"—Directional information—Individual business signs. The department is authorized to erect and maintain specific information panels within the right of way of the interstate highway system to give the traveling public specific information as to gas, food, or lodging available on a crossroad at or near an interchange. Specific information panels shall include the words "GAS," "FOOD," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. The erection and maintenance of specific information panels shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23, United States Code and rules adopted by the state department of transportation. A motorist service business shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building. The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance. [1984 c 7 § 223; 1974 ex.s. c 80 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.047 Specific information panels within portions of right of way of primary and scenic systems—"Gas," "Food," "Recreation," "Lodging"—Directional information—Individual business signs. The department is authorized to erect and maintain specific information panels within the right of way of those portions both of the primary system and the scenic system lying outside of cities and towns and lying outside of commercial and industrial areas to give the traveling public specific information as to gas, food, recreation, or lodging available off the primary or scenic highway accessible by way of highways intersecting the primary or scenic highway. Specific information panels shall include the words "GAS," "FOOD," "RECREATION," or "LODGING" and directional information and may contain one or more individual business signs maintained on the panel. The erection and maintenance of specific information panels along primary or scenic highways shall conform to the national standards promulgated by the United States secretary of transportation pursuant to sections 131 and 315 of Title 23 United States Code and rules

adopted by the state department of transportation including the manual on uniform traffic control devices for streets and highways. A motorist service business shall not be permitted to display its name, brand, or trademark on a specific information panel unless its owner has first entered into an agreement with the department limiting the height of its on-premise signs at the site of its service installation to not more than fifteen feet higher than the roof of its main building. The department shall charge reasonable fees for the display of individual business signs to defray the costs of their installation and maintenance. [1984 c 7 § 224; 1974 ex.s. c 80 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.055 Roadside area information panels or displays. The department is authorized to permit the erection of roadside area information panels or displays adjacent to the state highway system within this state. The department shall contract with private persons for the erection and operation of the information panels or displays. Compensation to the contractors shall be derived solely from the reasonable fees that the contractors will be permitted to charge participating businesses for making and exhibiting business signs and displays and for rendering services to tourists. No state funds may be expended in materials, personnel, or in any other form for the construction, fabrication, printing, painting, selling, or maintenance of these panels or displays. [1984 c 7 § 225; 1977 ex.s. c 258 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.060 Rules for signs visible from interstate and scenic systems—Judicial review. The department shall adopt rules for the erection and maintenance of signs that are visible from the main traveled way of the interstate system and the scenic system and that are permitted by this chapter and other rules for the administration of this chapter consistent with the policy of this chapter and the national policy set forth in section 131, title 23, United States Code as codified and enacted by Public Law 85-767 and amended only by section 106, Public Law 86-342 and the regulations promulgated thereunder by the secretary of commerce or the secretary of transportation. Proceedings for review of any action taken by the department pursuant to this chapter shall be instituted by filing a petition only in the superior court of Thurston county. [1984 c 7 § 226; 1971 ex.s. c 62 § 6; 1961 c 96 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.080 Prohibited signs a public nuisance—Procedure for abatement—Penalty. (1) Any sign erected or maintained contrary to the provisions of this chapter or rules adopted hereunder that is designed to be viewed from the interstate system, the primary system, or the scenic system is a public nuisance, and the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall notify the permittee or, if there is no permittee, the

owner of the property on which the sign is located, by certified mail at his last known address, that it constitutes a public nuisance and must comply with the chapter or be removed.

(2) If the permittee or owner, as the case may be, fails to comply with the chapter or remove any such sign within fifteen days after being notified to remove the sign he is guilty of a misdemeanor. In addition to the penalties imposed by law upon conviction, an order may be entered compelling removal of the sign. Each day the sign is maintained constitutes a separate offense.

(3) If the permittee or the owner of the property upon which it is located, as the case may be, is not found or refuses receipt of the notice, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall post the sign and property upon which it is located with a notice that the sign constitutes a public nuisance and must be removed. If the sign is not removed within fifteen days after such posting, the department, the chief of the Washington state patrol, the county sheriff, or the chief of police of any city or town shall abate the nuisance and destroy the sign, and for that purpose may enter upon private property without incurring liability for doing so.

(4) Nothing in this section may be construed to affect the provisions contained in RCW 47.42.102 requiring the payment of compensation upon the removal of any signs compensable under state law. [1984 c 7 § 227; 1975-'76 2nd ex.s. c 55 § 1; 1971 ex.s. c 62 § 10; 1961 c 96 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.090 Revocation of permit. If any person is convicted of a violation of this chapter, or any rule adopted hereunder, the department may revoke any permit issued to that person under this chapter. [1984 c 7 § 228; 1961 c 96 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.103 Compensation for removal of signs—Action to determine amount of compensation—Payment—State's share. (1) Compensation as required by RCW 47.42.102 shall be paid to the person or persons entitled thereto for the removal of such signs. If no agreement is reached on the amount of compensation to be paid, the department may institute an action by summons and complaint in the superior court for the county in which the sign is located to obtain a determination of the compensation to be paid. If the owner of the sign is unknown and cannot be ascertained after diligent efforts to do so, the department may remove the sign upon the payment of compensation only to the owner of the real property on which the sign is located. Thereafter the owner of the sign may file an action at any time within one year after the removal of the sign to obtain a determination of the amount of compensation he should receive for the loss of the sign. If either the owner of the sign or the owner of the real property on which the sign is located cannot be found within the state, service of the summons and complaint on such person for the purpose

of obtaining a determination of the amount of compensation to be paid may be by publication in the manner provided by RCW 4.28.100.

(2) If compensation is determined by judicial proceedings, the sum so determined shall be paid into the registry of the court to be disbursed upon removal of the sign by its owner or by the owner of the real property on which the sign is located. If the amount of compensation is agreed upon, the department may pay the agreed sum into escrow to be released upon the removal of the sign by its owner or the owner of the real property on which the sign is located.

(3) The state's share of compensation shall be paid from the motor vehicle fund, or if a court having jurisdiction enters a final judgment declaring that motor vehicle funds may not be used, then from the general fund. [1984 c 7 § 229; 1971 ex.s. c 62 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.104 Compensation for removal of signs—

Federal share—Acceptance. The department may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the purposes of section 131 of title 23, United States Code, as now or hereafter amended. The department shall take such steps as may be necessary from time to time to obtain from the United States, or the appropriate agency thereof, funds allotted and appropriated, pursuant to section 131, for the purpose of paying the federal share of the just compensation to be paid to sign owners and owners of real property under the terms of subsection (g) of section 131 and RCW 47.42.102, 47.42.103, and 47.42.104. [1984 c 7 § 230; 1971 ex.s. c 62 § 14.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.110 Agreements to secure federal aid. The department is authorized to enter into agreements (and such supplementary agreements as may be necessary) consistent with this chapter, with the secretary of commerce or the secretary of transportation authorized under section 131(b) of title 23, United States Code, as codified and enacted by Public Law 85-767 and amended only by section 106, Public Law 86-342, in order that the state may become eligible for increased federal aid as provided for in section 131 of title 23, United States Code, as codified and enacted by Public Law 85-767 and amended only by section 106, Public Law 86-342. [1984 c 7 § 231; 1971 ex.s. c 62 § 16; 1961 c 96 § 11.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.120 Permits—Fees—Renewal—Permissible acts—Revocation. Notwithstanding any other provisions of this chapter, no sign except a sign of type 1 or 2 or those type 3 signs that advertise activities conducted upon the properties where the signs are located, may be erected or maintained without a permit issued by the department. Application for a permit shall be made to the department on forms furnished by it. The forms shall contain a statement that the owner or lessee of the

land in question has consented thereto. The application shall be accompanied by a fee of ten dollars to be deposited with the state treasurer to the credit of the motor vehicle fund. Permits shall be for the calendar year and shall be renewed annually upon payment of this fee for the new year without the filing of a new application. Fees shall not be prorated for fractions of the year. Advertising copy may be changed at any time without the payment of an additional fee. Assignment of permits in good standing is effective only upon receipt of written notice of assignment by the department. A permit may be revoked after hearing if the department finds that any statement made in the application was false or misleading, or that the sign covered is not in good general condition and in a reasonable state of repair, or is otherwise in violation of this chapter, if the false or misleading information has not been corrected and the sign has not been brought into compliance with this chapter within thirty days after written notification. [1984 c 7 § 232; 1971 ex.s. c 62 § 17; 1961 c 96 § 12.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.42.130 Permit identification number—Permittee's name and number on signs—Presumption of non-compliance. Every permit issued by the department shall be assigned a separate identification number, and each permittee shall fasten to each sign a weatherproof label, not larger than six square inches, that shall be furnished by the department and on which shall be plainly visible the permit number. The permittee shall also place his or her name in a conspicuous position on the front or back of each sign. The failure of a sign to have such a label affixed to it is prima facie evidence that it is not in compliance with the provisions of this chapter. [1984 c 7 § 233; 1961 c 96 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.44

FRANCHISES ON STATE HIGHWAYS

Sections	
47.44.030	Removal of facilities—Notice—Reimbursement of owner when national system involved.
47.44.031	Removal of facilities—Limitation.
47.44.040	Franchises across joint bridges.
47.44.050	Permit for short distances.

47.44.030 Removal of facilities—Notice—Reimbursement of owner when national system involved. If the department deems it necessary that a facility be removed from the highway for the safety of persons traveling thereon or for construction, alteration, improvement, or maintenance purposes, it shall give notice to the franchise holder to remove the facility at his or her expense and as the department orders. However, notwithstanding any contrary provision of law or of any existing or future franchise held by a public utility, the department shall pay or reimburse the owner for relocation or removal of any publicly, privately, or cooperatively owned public utility facilities when necessitated by

the construction, reconstruction, relocation, or improvement of a highway that is part of the national system of interstate and defense highways for each item of cost for which the state is entitled to be reimbursed by the United States in an amount equal to at least ninety percent thereof under the provisions of section 123 of the federal aid highway act of 1958 and any other subsequent act of congress under which the state is entitled to be reimbursed by the United States in an amount equal to at least ninety percent of the cost of relocation of utility facilities on the national system of interstate and defense highways. [1984 c 7 § 234; 1961 c 13 § 47.44-.030. Prior: 1959 c 330 § 2; 1937 c 53 § 85; RRS § 6400-85.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.44.031 Removal of facilities—Limitation. The provisions of RCW 47.44.030 authorizing the department to pay or reimburse the owner of a utility apply only to relocation or removal of utility facilities required by state construction contracts which are advertised for bids by the department after June 30, 1959. [1984 c 7 § 235; 1961 c 13 § 47.44.031. Prior: 1959 c 330 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.44.040 Franchises across joint bridges. Whenever any bridge exists on the route of any state highway and crosses any stream, body of water, gulch, navigable water, swamp, or other topographical formation constituting the boundary of this state or the boundary of a county, city, or town of this state and the bridge is owned or operated by this state jointly with any such county, city, or town, or with any municipal corporation of this state, or with such other state or with any county, city, or town of such other state, the department is empowered to join with the proper officials of the county, city, or town, or the municipal corporation of this state or of such other state or of such county, city, or town of such other state in granting franchises to persons or private or municipal corporations for the construction and maintenance on the bridge of water pipes, flumes, gas pipes, telephone, telegraph, and electric light and power lines and conduits, trams and railways, and any structures or facilities that are part of an urban public transportation system owned or operated by a municipal corporation, agency, or department of the state of Washington other than the department, or any other such facilities. All such franchises shall be granted in the same manner as provided for the granting of like franchises on state highways. Any revenue accruing to the state of Washington from the franchises shall be paid to the state treasurer and deposited to the credit of the fund from which this state's share of the cost of joint operation of the bridge is paid. [1984 c 7 § 236; 1967 c 108 § 8; 1961 c 13 § 47.44.040. Prior: 1937 c 53 § 86; RRS § 6400-86.]

Severability—1984 c 7: See note following RCW 47.01.141.

Urban public transportation system defined: RCW 47.04.082.

47.44.050 Permit for short distances. The department is empowered to grant a permit to construct or maintain on, over, across, or along any state highway any water, gas, telephone, telegraph, light, power, or other such facilities when they do not extend along the state highway for a distance greater than three hundred feet. The department may require such information as it deems necessary in the application for any such permit, and may grant or withhold the permit within its discretion. Any permit granted may be canceled at any time, and any facilities remaining upon the right of way of the state highway after thirty days written notice of the cancellation is [are] an unlawful obstruction and may be removed in the manner provided by law. [1984 c 7 § 237; 1961 c 13 § 47.44.050. Prior: 1943 c 265 § 3; 1937 c 53 § 87; Rem. Supp. 1943 § 6400-87.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.48

CLOSING HIGHWAYS AND RESTRICTING TRAFFIC

Sections

47.48.010 Closure or restriction authorized—Restricting use of portion of highway to urban public transportation system use.

47.48.010 Closure or restriction authorized—Restricting use of portion of highway to urban public transportation system use. Whenever the condition of any state highway, county road, or city street, either newly or previously constructed, altered, repaired, or improved, or any part thereof is such that for any reason its unrestricted use or continued use by vehicles or by any class of vehicles will greatly damage that state highway, county road, or city street, or will be dangerous to traffic, or it is being constructed, altered, repaired, improved, or maintained in such a manner as to require that use of the state highway, county road, or city street, or any portion thereof be closed or restricted as to all vehicles or any class of vehicles for any period of time, the secretary, if it is a state highway, the county legislative authority, if it is a county road, or the governing body of any city or town, if it is a city street, is authorized to close the state highway, county road, or city street, as the case may be, to travel by all vehicles or by any class of vehicles, or may declare a lower maximum speed for any class of vehicles, for such a definite period as it shall determine. Nothing in the law of this state prevents the secretary, county legislative authority, or governing body of any city or town from classifying vehicles according to gross weight, axle weight, height, width, length, braking area, performance, vehicle combinations, or tire equipment for the purposes of this section, or from restricting the use of any portion of any state highway, county road, or city street, as the case may be, to its use by an urban public transportation system. [1984 c 7 § 238; 1977 ex.s. c 216 § 1; 1967 c 108 § 9; 1961 c 13 § 47.48.010. Prior: 1937 c 53 § 65; RRS §

6400–65; prior: 1929 c 214 § 1; 1927 c 232 § 1; 1921 c 21 § 1; RRS § 6839.]

Severability—1984 c 7: See note following RCW 47.01.141.
Urban public transportation system defined: RCW 47.04.082.

Chapter 47.52

LIMITED ACCESS FACILITIES

Sections

47.52.020	Powers of highway authorities—State facility, county road crossings.
47.52.026	Rules—Control of vehicles entering limited access highways—Closure, metering, or restrictions of highway ramps—Notice.
47.52.090	Cooperative agreements—Provision for urban public transportation systems—Title to highway—Traffic regulations—Underground utilities and overcrossings—Passenger transportation—Storm sewers—City street crossings.
47.52.105	Acquisition and construction to preserve limited access or reduce required compensation.
47.52.131	Establishment of facility by state—Consideration of data—Report to local authorities—Conferences—Proposed plan.
47.52.160	State facility through city or town—Hearing—Notice—Evidence—Determination of issues.
47.52.190	State facility through city or town—Hearing—Assistants—Costs—Reporter.

47.52.020 Powers of highway authorities—State facility, county road crossings. The highway authorities of the state, counties, and incorporated cities and towns, acting alone or in cooperation with each other, or with any federal, state, or local agency, or any other state having authority to participate in the construction and maintenance of highways, may plan, designate, establish, regulate, vacate, alter, improve, construct, maintain, and provide limited access facilities for public use wherever the authority or authorities are of the opinion that traffic conditions, present or future, will justify the special facilities. However, upon county roads within counties, the state or county authorities are subject to the consent of the county legislative authority, except that where a state limited access facility crosses a county road the department may, without the consent of the county legislative authority, close off the county road so that it will not intersect such limited access facility.

The department may, in constructing or relocating any state highway, cross any county road at grade without obtaining the consent of the county legislative authority, and in so doing may revise the alignment of the county road to the extent that the department finds necessary for reasons of traffic safety or practical engineering considerations. [1984 c 7 § 239; 1961 c 13 § 47.52.020. Prior: 1957 c 235 § 2; prior: 1953 c 30 § 1; 1951 c 167 § 4; 1947 c 202 § 2, part; Rem. Supp. 1947 § 6402–61, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.52.026 Rules—Control of vehicles entering limited access highways—Closure, metering, or restrictions of highway ramps—Notice. (1) The department may adopt rules for the control of vehicles entering any

state limited access highway as it deems necessary (a) for the efficient or safe flow of traffic traveling upon any part of the highway or connections with it or (b) to avoid exceeding federal, state, or regional air pollution standards either along the highway corridor or within an urban area served by the highway.

(2) Rules adopted by the department pursuant to subsection (1) of this section may provide for the closure of highway ramps or the metering of vehicles entering highway ramps or the restriction of certain classes of vehicles entering highway ramps (including vehicles with less than a specified number of passengers), and any such restrictions may vary at different times as necessary to achieve the purposes mentioned in subsection (1) of this section.

(3) Vehicle restrictions authorized by rules adopted pursuant to this section are effective when proper notice is given by any police officer, or by appropriate signals, signs, or other traffic control devices. [1984 c 7 § 240; 1974 ex.s. c 133 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.52.090 Cooperative agreements—Provision for urban public transportation systems—Title to highway—Traffic regulations—Underground utilities and overcrossings—Passenger transportation—Storm sewers—City street crossings. The highway authorities of the state, counties, incorporated cities and towns, and municipal corporations owning or operating an urban public transportation system are authorized to enter into agreements with each other, or with the federal government, respecting the financing, planning, establishment, improvement, construction, maintenance, use, regulation, or vacation of limited access facilities in their respective jurisdictions to facilitate the purposes of this chapter. Any such agreement may provide for the exclusive or nonexclusive use of a portion of the facility by street cars, trains, or other vehicles forming a part of an urban public transportation system and for the erection, construction, and maintenance of structures and facilities of such a system including facilities for the receipt and discharge of passengers. Within incorporated cities and towns the title to every state limited access highway vests in the state, and, notwithstanding any other provision of this section, the department shall exercise full jurisdiction, responsibility, and control to and over the highway from the time it is declared to be operational as a limited access facility by the department, subject to the following provisions:

(1) Cities and towns shall regulate all traffic restrictions on such facilities except as provided in RCW 46.61.430, and all regulations adopted are subject to approval of the department before becoming effective. Nothing herein precludes the state patrol or any county, city, or town from enforcing any traffic regulations and restrictions prescribed by state law, county resolution, or municipal ordinance.

(2) The city, town, or franchise holder shall at its own expense maintain its underground facilities beneath the surface across the highway and has the right to construct additional facilities underground or beneath the

surface of the facility or necessary overcrossings of power lines and other utilities as may be necessary insofar as the facilities do not interfere with the use of the right of way for limited access highway purposes. The city or town has the right to maintain any municipal utility and the right to open the surface of the highway. The construction, maintenance until permanent repair is made, and permanent repair of these facilities shall be done in a time and manner authorized by permit to be issued by the department or its authorized representative, except to meet emergency conditions for which no permit will be required, but any damage occasioned thereby shall promptly be repaired by the city or town itself, or at its direction. Where a city or town is required to relocate overhead facilities within the corporate limits of a city or town as a result of the construction of a limited access facility, the cost of the relocation shall be paid by the state.

(3) Cities and towns have the right to grant utility franchises crossing the facility underground and beneath its surface insofar as the franchises are not inconsistent with the use of the right of way for limited access facility purposes and the franchises are not in conflict with state laws. The department is authorized to enforce, in an action brought in the name of the state, any condition of any franchise that a city or town has granted. No franchise for transportation of passengers in motor vehicles may be granted on such highways without the approval of the department, except cities and towns are not required to obtain a franchise for the operation of municipal vehicles or vehicles operating under franchises from the city or town operating within the corporate limits of a city or town and within a radius not exceeding eight miles outside the corporate limits for public transportation on such facilities, but these vehicles may not stop on the limited access portion of the facility to receive or to discharge passengers unless appropriate special lanes or deceleration, stopping, and acceleration space is provided for the vehicles.

Every franchise or permit granted any person by a city or town for use of any portion of a limited access facility shall require the grantee or permittee to restore, permanently repair, and replace to its original condition any portion of the highway damaged or injured by it. Except to meet emergency conditions, the construction and permanent repair of any limited access facility by the grantee of a franchise shall be in a time and manner authorized by a permit to be issued by the department or its authorized representative.

(4) The department has the right to use all storm sewers that are adequate and available for the additional quantity of run-off proposed to be passed through such storm sewers.

(5) The construction and maintenance of city streets over and under crossings and surface intersections of the limited access facility shall be in accordance with the governing policy entered into between the department and the association of Washington cities on June 21, 1956, or as such policy may be amended by agreement between the department and the association of

Washington cities. [1984 c 7 § 241; 1977 ex.s. c 78 § 8; 1967 c 108 § 11; 1961 c 13 § 47.52.090. Prior: 1957 c 235 § 4; 1947 c 202 § 8; Rem. Supp. 1947 § 6402-67.]

Severability—1984 c 7: See note following RCW 47.01.141.
Urban public transportation system defined: RCW 47.04.082.

47.52.105 Acquisition and construction to preserve limited access or reduce required compensation. Whenever, in the opinion of the department, frontage or service roads in connection with limited access facilities are not feasible either from an engineering or economic standpoint, the department may acquire private or public property by purchase or condemnation and construct any road, street, or highway connecting to or leading into any other road, street, or highway, when by so doing, it will preserve a limited access facility or reduce compensation required to be paid to an owner by reason of reduction in or loss of access. The department shall provide by agreement with a majority of the legislative authority of the county or city concerned as to location, future maintenance, and control of any road, street, or highway to be so constructed. The road, street, or highway need not be made a part of the state highway system or connected thereto, but may upon completion by the state be turned over to the county or city for location, maintenance, and control pursuant to the agreement as part of the system of county roads or city streets. [1984 c 7 § 242; 1967 c 117 § 1; 1961 c 13 § 47.52.105. Prior: 1955 c 63 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.52.131 Establishment of facility by state—Consideration of data—Report to local authorities—Conferences—Proposed plan. When the department is planning a limited access facility through a county or an incorporated city or town, the department or its staff, before any hearing, shall give careful consideration to available data as to the county or city's comprehensive plan, land use pattern, present and potential traffic volume of county roads and city streets crossing the proposed facility, origin and destination traffic surveys, existing utilities, the physical appearance the facility will present, and other pertinent surveys, and shall submit to the county and city officials for study a report showing how these factors have been taken into account and how the proposed plan for a limited access facility will serve public convenience and necessity, together with the locations and access and egress plans, and over and under crossings that are under consideration. This report shall show the proposed approximate right of way limits and profile of the facility with relation to the existing grade, and shall discuss in a general manner plans for landscaping treatment, fencing, and illumination, and shall include sketches of typical roadway sections for the roadway itself and any necessary structures such as viaducts or bridges, subways, or tunnels.

Conferences shall be held on the merits of this state report and plans and any proposed modification or alternate proposal of the county, city, or town in order to attempt to reach an agreement between the department

and the county or city officials. As a result of the conference, the proposed plan, together with any modifications, shall be prepared by the department and presented to the county or city for inspection and study. [1984 c 7 § 243; 1965 ex.s. c 75 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.52.160 State facility through city or town—Hearing—Notice—Evidence—Determination of issues. The board shall fix a reasonable time not more than thirty days after the date of its appointment and shall indicate the time and place for the hearing, and shall give notice to the county, city, or town and to the department. At the time and place fixed for the hearing, the state and the county, city, or town shall present all of their evidence with respect to the objections set forth in the request for the hearing before the board, and if either the state, the county, or the city or town fails to do so, the board may determine the issues upon such evidence as may be presented to it at the hearing. [1984 c 7 § 244; 1963 c 103 § 4; 1961 c 13 § 47.52.160. Prior: 1957 c 235 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.52.190 State facility through city or town—Hearing—Assistants—Costs—Reporter. The board shall employ such assistance and clerical help as is necessary to perform its duties. The costs thereby incurred and incident to the conduct of the hearing, necessary expenses, and fees, if any, of members of the board shall be borne equally by the county, city, or town requesting the hearing and the department. When oral testimony is stenographically reported, the department shall provide a reporter at its expense. [1984 c 7 § 245; 1963 c 103 § 5; 1961 c 13 § 47.52.190. Prior: 1957 c 235 § 11.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.56

STATE TOLL BRIDGES, TUNNELS, AND FERRIES

Sections

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47.56.010 Definitions. "Toll bridge" means a bridge constructed or acquired under this chapter, upon which tolls are charged, together with all appurtenances, additions, alterations, improvements, and replacements

thereof, and the approaches thereto, and all lands and interests used therefor, and buildings and improvements thereon.

"Toll road" means any express highway, superhighway, or motorway at such locations and between such termini as may be established by law, and constructed or to be constructed as a limited access highway under the provisions of this chapter by the department, and shall include, but not be limited to, all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service facilities, communications facilities, and administration, storage, and other buildings that the department may deem necessary for the operation of the project, together with all property, rights, easements, and interests that may be acquired by the department for the construction or the operation of the project, all of which shall be conducted in the same manner and under the same procedure as provided for the establishing, constructing, operating, and maintaining of toll bridges by the department, insofar as those procedures are reasonably consistent and applicable. [1984 c 7 § 246; 1961 c 13 § 47.56.010. Prior: 1953 c 220 § 1; 1937 c 173 § 1, part; RRS § 6524-1, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.027 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.029 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.032 Authority to perform powers relating to state ferries—Acquisition, operation, construction, maintenance, collection of tolls, etc. All powers vested in the toll bridge authority as of September 21, 1977, relating to the acquiring, operating, extending, designing, constructing, repairing, and maintenance of the Washington state ferries or any part thereof and the collecting of tolls and charges for use of its facilities, shall be performed by the department. The commission shall determine all fares, tolls, and other charges for its facilities and shall directly perform all duties and exercise all powers relating to financing, refinancing, and fiscal management of the system's bonded indebtedness in the manner provided by law. [1984 c 7 § 247; 1961 c 278 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.040 Toll bridges authorized—Investigations. The department is empowered, in accordance with the provisions of this chapter, to provide for the establishment and construction of toll bridges upon any public highways of this state together with approaches thereto wherever it is considered necessary or advantageous and practicable for crossing any stream, body of water, gulch, navigable water, swamp, or other topographical formation whether that formation is within this state or constitutes a boundary between this state and an adjoining state or country. The necessity or advantage and practicability of any such toll bridge shall be determined

by the department, and the feasibility of financing any toll bridge in the manner provided by this chapter shall be a primary consideration and determined according to the best judgment of the department. For the purpose of obtaining information for the consideration of the department upon the construction of any toll bridge or any other matters pertaining thereto, any cognizant officer or employee of the state shall, upon the request of the department, make reasonable examination, investigation, survey, or reconnaissance for the determination of material facts pertaining thereto and report this to the department. The cost of any such examination, investigation, survey, or reconnaissance shall be borne by the department or office conducting these activities from the funds provided for that department or office for its usual functions. [1984 c 7 § 248; 1961 c 13 § 47.56.040. Prior: 1937 c 173 § 3; RRS § 6524-3; prior: 1913 c 56 § 2; RRS § 6525.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.042 State boundary bridges—Investigations—Agreements with counties or states. The department is authorized to enter into agreements with any county of this state and/or with an adjoining state or county thereof for the purpose of implementing an investigation of the feasibility of any toll bridge project for the bridging of a river forming a portion of the boundary of this state, and the adjoining state. The department may use funds available to it to carry out the purposes of this section. These agreements may provide that if any such project is determined to be feasible and is adopted, any advancement of funds by any state or county may be reimbursed out of any proceeds derived from the sale of bonds or out of tolls and revenues to be derived from the project. [1984 c 7 § 249; 1961 c 13 § 47.56.042. Prior: 1955 c 203 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.050 Purchase of bridges and ferries authorized—Provisions applicable. (1) The department, whenever it is considered necessary or advantageous and practicable, is empowered to provide for the acquisition by purchase of, and to acquire by purchase (a) any bridge or bridges or ferries which connect with or may be connected with the public highways of this state (b) together with approaches thereto.

(2) In connection with the acquisition by purchase of any bridge or bridges or ferries under subsection (1) of this section, the department, the state treasurer, any city, county, or other political subdivision of this state, and all of their officers:

(a) Are empowered and required to do all acts and things provided for in this chapter to establish and construct toll bridges and operate, finance, and maintain such bridges insofar as the powers and requirements are applicable to the purchase of any bridge or bridges or ferries and their operation, financing, and maintenance; and

(b) In purchasing, operating, financing, and maintaining any bridge or bridges or ferries acquired or to be

acquired by purchase under this section, shall act in the same manner and under the same procedures as are provided in this chapter to establish, construct, operate, finance, and maintain toll bridges insofar as such manner and procedure are applicable to the purchase of any bridge or bridges or ferries and their operation, financing, and maintenance.

(3) Without limiting the generality of the provisions contained in subsections (1) and (2) of this section, the department is empowered: (a) To cause surveys to be made for the purpose of investigating the propriety of acquiring by purchase any such bridge or bridges or ferries and the right of way necessary or proper for that bridge or bridges or ferries, and other facilities necessary to carry out the provisions of this chapter; (b) to issue, sell, and redeem bonds, and to deposit and pay out the proceeds of the bonds for the financing thereof; (c) to collect, deposit, and expend tolls therefrom; (d) to secure and remit financial and other assistance in the purchase thereof; and (e) to carry insurance thereon.

(4) The provisions of RCW 47.56.220 apply when any bridge or bridges or ferries are acquired by purchase pursuant to this section. [1984 c 7 § 250; 1973 c 106 § 25; 1961 c 13 § 47.56.050. Prior: 1945 c 266 § 1; Rem. Supp. 1945 § 6524-3a.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.060 Toll bridges—General powers of department and officials—Financial statements. The department, the officials thereof, and all other state officials are empowered to act and make agreements consistent with law as may be necessary or desirable in connection with the duties and powers conferred upon them respectively by law regarding the construction, maintenance, operation, and insurance of toll bridges or the safeguarding of the funds and revenues required for such construction and the payment of the indebtedness incurred therefor. The department shall keep full, complete, and separate accounts of each toll bridge, and annually shall prepare balance sheet and income and profit and loss statements showing the financial condition of each such toll bridge, which statement shall be open at all reasonable times to the inspection of holders of bonds issued by the department. [1984 c 7 § 251; 1961 c 13 § 47.56.060. Prior: 1937 c 173 § 17; RRS § 6524-17.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.075 Toll roads, facilities—Legislative authorization or local sponsorship required. The department shall approve for construction only such toll roads as the legislature specifically authorizes or such toll facilities as are specifically sponsored by a city, town, or county. [1984 c 7 § 252; 1961 c 13 § 47.56.075. Prior: 1953 c 220 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.077 Concessions to operate private business on toll road right of way prohibited. The department shall not grant concessions for the operation or establishment

of any privately owned business upon toll road rights of way. [1984 c 7 § 253; 1961 c 13 § 47.56.077. Prior: 1953 c 220 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.100 Toll bridges—Right of way across state highways and property of political subdivisions—Compensation. The right of way is hereby given, dedicated, and set apart upon which to locate, construct, and maintain bridges or approaches thereto or other highway crossings, and transportation facilities thereof or thereto, through, over, or across any state highways, and through, over, or across the streets, alleys, lanes, and roads within any city, county, or other political subdivision of the state. If any property belonging to any city, county, or other political subdivision of the state is required to be taken for the construction of any bridge or approach thereto, or if any such property is injured or damaged by such construction, compensation therefor as may be proper or necessary and as agreed upon may be paid by the department to the particular county, city, or other political subdivision of the state owning the property, or condemnation proceedings may be brought for the determination of the compensation. [1984 c 7 § 254; 1977 ex.s. c 103 § 4; 1961 c 13 § 47.56.100. Prior: 1937 c 173 § 16; RRS § 6524-16.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.110 Toll bridges—Resolution of necessity in acquiring right of way—Effect of. Before the department proceeds with any action to secure a right of way or with construction of any toll bridge under the provisions of this chapter, the commission shall first pass a resolution that public interest and necessity require the acquisition of right of way for and the construction of the toll bridge. The resolution is conclusive evidence (1) of the public necessity of such construction; (2) that the property is necessary therefor; and (3) that the proposed construction is planned or located in a manner which will be most compatible with the greatest public good and the least private injury. When it becomes necessary for the department to condemn any real estate to be used in connection with any such bridge, the attorney general of the state shall represent the department. In eminent domain proceedings to acquire property for any of the purposes of this chapter, any toll bridge, real property, personal property, franchises, rights, easements, or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, firm, private, public, or municipal corporation, county, city, town, district, or any political subdivision of the state, may be condemned and taken, and the acquisition and use as provided in this chapter for the same public use or purpose to which the property has been so appropriated or dedicated, or for any other public use or purpose, is a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which the property has already been appropriated or dedicated. It is not necessary in any eminent domain proceedings under this

chapter to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution hereinbefore referred to describing the property sought to be taken and directing such proceedings. [1984 c 7 § 255; 1961 c 13 § 47.56.110. Prior: 1937 c 173 § 11; RRS § 6524-11.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.130 Toll bridges—Bonds—Cooperative funds from state and federal government. The department is hereby empowered to issue bonds for the construction of any toll bridge or toll bridges authorized under the provisions of this chapter. Any and all bonds issued for the construction of any toll bridge or toll bridges under the authority of the department shall be issued in the name of the department, shall constitute obligations only of the department, shall be identified as ----- toll bridge bonds, and shall contain a recital on the face thereof that the payment or redemption of the bonds and the payment of the interest thereon is secured by a direct and exclusive charge and lien upon the tolls and other revenues of any nature whatever received from the operation of the particular toll bridge or bridges for the construction of which the bonds are issued and that neither the payment of the principal or any part thereof nor of the interest thereon or any part thereof constitutes a debt, liability, or obligation of the state of Washington. The department is empowered to receive and accept funds from the state of Washington or the federal government upon a cooperative or other basis for the construction of any toll bridge authorized under this chapter and is empowered to enter into such agreements with the state of Washington or the federal government as may be required for the securing of such funds. [1984 c 7 § 256; 1961 c 13 § 47.56.130. Prior: 1937 c 173 § 7; RRS § 6524-7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.150 Toll bridges—Bond proceeds and toll revenues, disposition of—Construction fund—Disbursement—Investment. The proceeds from the sale of all bonds authorized under the provisions of this chapter shall be paid to the state treasurer for the credit of the department and be deposited as demand deposits forthwith in such depository or depositories as may be authorized by law to receive deposits of state funds to the credit of a fund to be designated as the construction fund of the particular toll bridge or toll bridges for which such bonds were issued and sold, which fund shall not be a state fund and shall at all times be kept segregated and set apart from all other funds and in trust for the purposes herein set out. Such proceeds shall be paid out or disbursed solely for the construction of such toll bridge or toll bridges, the acquisition of the necessary lands and easements therefor and the payment of interest on such bonds during the period of actual construction and for a period of six months thereafter, only as the need therefor shall arise. The department may agree with the purchaser of the bonds upon any conditions or limitations restricting the disbursement of such funds

that may be deemed advisable, for the purpose of assuring the proper application of such funds. All moneys in such fund and not required to meet current construction costs of the toll bridge or toll bridges for which such bonds were issued and sold, and all funds constituting surplus revenues that are not immediately needed for the particular object or purpose to which they must be applied or are pledged shall be invested in bonds and obligations of the nature eligible for investment of surplus state moneys: *Provided*, That the department may provide in the proceedings authorizing the issuance of these bonds that the investment of such moneys shall be made only in particular bonds and obligations within the classifications eligible for such investment, and such provisions shall thereupon be binding upon the department and all officials having anything to do with the investment. Any surplus which may exist in the construction fund shall be applied to the retirement of bonds issued for the construction of such toll bridge or toll bridges by purchase or call. If these bonds cannot be purchased at a price satisfactory to the department and are not by their terms callable prior to maturity, the surplus shall be paid into the fund applicable to the payment of principal and interest of the bonds and shall be used for that purpose. The proceedings authorizing the issuance of bonds may provide limitations and conditions upon the time and manner of applying the surplus to the purchase and call of outstanding bonds and the terms upon which they shall be purchased or called. Such limitations and conditions shall be followed and observed in the application and use of the surplus. All bonds so retired by purchase or call shall be immediately canceled. [1984 c 7 § 257; 1961 c 13 § 47.56.150. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.160 Toll bridges—Toll revenue fund. All tolls or other revenues received from the operation of any toll bridge or toll bridges constructed with the proceeds of bonds issued and sold hereunder shall be paid over by the department to the state treasurer. The treasurer shall deposit them forthwith as demand deposits in a depository or depositories authorized by law to receive deposits of state funds. The deposit shall be made to the credit of a special trust fund designated as the toll revenue fund of the particular toll bridge or toll bridges producing the tolls or revenue, which fund shall be a trust fund and shall at all times be kept segregated and set apart from all other funds. [1984 c 7 § 258; 1961 c 13 § 47.56.160. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.170 Toll bridges—Transfer of funds for bond payments—Surplus funds. From the money deposited in each separate construction fund under RCW 47.56.160, the state treasurer shall transfer to the place or places of payment named in the bonds such sums as may be required to pay the interest as it becomes due on all bonds sold and outstanding for the construction of a

particular toll bridge or toll bridges during the period of actual construction and during the period of six months immediately thereafter. The state treasurer shall thereafter transfer from each separate toll revenue fund to the place or places of payment named in the bonds such sums as may be required to pay the interest on the bonds and redeem the principal thereof as the interest payments and bond redemption become due for all bonds issued and sold for the construction of the particular toll bridge or toll bridges producing the tolls or revenues so deposited in the toll revenue fund. All funds so transferred for the payment of principal or interest on bonds issued for any particular toll bridge shall be segregated and applied solely for the payment of that principal or interest. The proceedings authorizing the issuance of bonds may provide for setting up a reserve fund or funds out of the tolls and other revenues not needed for the payment of principal and interest, as the same currently matures and for the preservation and continuance of the fund in a manner to be provided therein. The proceedings may also require the immediate application of all surplus moneys in the toll revenue fund to the retirement of the bonds prior to maturity, by call or purchase, in such manner and upon such terms and the payment of such premiums as may be deemed advisable in the judgment of the department.

The moneys remaining in each separate toll revenue fund after providing the amount required for interest and redemption of bonds as provided in this section shall be held and applied as provided in the proceedings authorizing the issuance of the bonds. If the proceedings authorizing the issuance of the bonds do not require surplus revenues to be held or applied in any particular manner, they shall be allocated and used for such other purposes incidental to the construction, operation, and maintenance of the toll bridge or bridges as the department may determine. [1984 c 7 § 259; 1961 c 13 § 47.56.170. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.180 Toll bridges—Payments made by warrants on vouchers—Interest on deposits. Warrants for payments to be made on account of the bonds shall be duly drawn by the state treasurer on vouchers approved by the department.

Moneys required to meet the costs of construction and all expenses and costs incidental to the construction of any particular toll bridge or toll bridges or to meet the costs of operating, maintaining, and repairing the bridge or bridges shall be paid from the proper fund therefor by the state treasurer upon vouchers approved by the department.

All interest received or earned on money deposited in each and every fund provided for in this chapter shall be credited to and become a part of the particular fund upon which the interest accrues. [1984 c 7 § 260; 1973 c 106 § 26; 1961 c 13 § 47.56.180. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.190 Toll bridges—Agreement on deposit of funds. The department may provide in the proceedings authorizing the issuance of bonds or may otherwise agree with the purchasers of bonds regarding the deposit of all moneys constituting the construction fund and the toll revenue fund and provide for the deposit of the money at such times and with such depositaries or paying agents and upon the furnishing of security as meets with the approval of the purchasers of the bonds so long as the depositaries and security provided for or agreed upon are qualified and eligible in accordance with the requirements of law. [1984 c 7 § 261; 1961 c 13 § 47.56.190. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.200 Toll bridges—Use of bond proceeds and revenue for expenses. Notwithstanding anything contained in this chapter, the proceeds received from the sale of bonds and the tolls or other revenues received from the operation of any toll bridge or toll bridges may be used to defray any expenses incurred by the department in connection with and incidental to the issuance and sale of bonds for the construction of the toll bridge or toll bridges including expenses for the preparation of surveys and estimates and making inspections and examinations required by the purchasers of the bonds. In addition, the proceedings authorizing the issuance of the bonds may contain appropriate provisions governing the use and application of the bond proceeds and toll or other revenues for the purposes herein specified. [1984 c 7 § 262; 1961 c 13 § 47.56.200. Prior: 1937 c 173 § 14, part; RRS § 6524-14, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.210 Toll bridges—Remedies of bond holders. While any bonds issued by the department under this chapter remain outstanding, the powers, duties, or existence of the department or of any other official or agency of the state shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holders of such bonds. The holder of any bond may by mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon any state department, official, or employee, or imposed upon the department or its officers, agents, and employees in connection with the construction, maintenance, operation, and insurance of any bridge, and in connection with the collection, deposit, investment, application, and disbursement of all tolls and other revenues derived from the operation and use of any bridge and in connection with the deposit, investment, and disbursement of the proceeds received from the sale of bonds. The enumeration of rights and remedies in this section shall not be deemed to exclude the exercise or prosecution of any other rights or remedies by the holders of the bonds. [1984 c 7 § 263; 1961 c 13 § 47.56.210. Prior: 1937 c 173 § 18; RRS § 6524-18.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.230 Toll bridges—Insurance or indemnity bonds authorized. When any toll bridge or bridges authorized under this chapter is being built by the department, the department may carry or cause to be carried an amount of insurance or indemnity bond or bonds as protection against loss or damage as the department may deem proper. The department is hereby further empowered to carry such an amount of insurance to cover any accident or destruction in part or in whole to any toll bridge or toll bridges until all bonds sold for the construction of the toll bridge or toll bridges and interest accrued thereon have been fully redeemed and paid. All moneys collected on any indemnity bond or insurance policy as the result of any damage or injury to the toll bridge or toll bridges shall be used for the purpose of repairing or rebuilding the toll bridge or toll bridges as long as there are revenue bonds against any such structure outstanding and unredeemed. The department is also empowered to carry insurance or indemnity bonds insuring against the loss of tolls or other revenues to be derived from any such toll bridge or bridges by reason of any interruption in the use of the toll bridge or toll bridges from any cause whatever, and the proceeds of the insurance or indemnity bonds shall be paid into the fund into which the tolls and other revenues of the bridge thus insured are required to be paid and shall be applied to the same purposes and in the same manner as other moneys in the fund. The insurance or indemnity bonds may be in an amount equal to the probable tolls and other revenues to be received from the operation of the toll bridge or toll bridges during any period of time that may be determined by the department and fixed in its discretion, and be paid for out of the toll revenue fund as may be specified in the proceedings. The department may provide in the proceedings authorizing the issuance of bonds for the carrying of insurance as authorized by this chapter, and the purchase and carrying of insurance as authorized by this chapter, and the purchase and carrying of such insurance shall thereupon be obligatory upon the department and be paid for out of the toll revenue fund as may be specified in the proceedings. [1984 c 7 § 264; 1961 c 13 § 47.56.230. Prior: 1937 c 173 § 15; RRS § 6524–15.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.240 Toll bridges—Fixing of toll rates authorized—Lien of bonds on revenue. The commission is hereby empowered to fix the rates of toll and other charges for all toll bridges built under the terms of this chapter. Toll charges so fixed may be changed from time to time as conditions warrant. The commission, in establishing toll charges, shall give due consideration to the cost of operating and maintaining such toll bridge or toll bridges including the cost of insurance, and to the amount required annually to meet the redemption of bonds and interest payments on them. The tolls and charges shall be at all times fixed at rates to yield annual revenue equal to annual operating and maintenance expenses including insurance costs and all redemption payments and interest charges of the bonds issued for any particular toll bridge or toll bridges as the bonds

become due. The bond redemption and interest payments constitute a first direct and exclusive charge and lien on all such tolls and other revenues and interest thereon. Sinking funds created therefrom received from the use and operation of the toll bridge or toll bridges, and such tolls and revenues together with the interest earned thereon shall constitute a trust fund for the security and payment of such bonds and shall not be used or pledged for any other purpose as long as any of these bonds are outstanding and unpaid. [1984 c 7 § 265; 1961 c 13 § 47.56.240. Prior: 1937 c 173 § 9; RRS § 6524–9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.242 Liquidation and closure of facility accounts upon removal of tolls—Transfer to motor vehicle fund. The department is authorized to liquidate and close toll facility trust and other facility accounts established outside the state treasury under chapter 47.56 RCW after the removal of tolls from the facility for which the accounts were established. Any balance remaining in the accounts shall thereupon be transferred to the motor vehicle fund. In addition, the department may, after the removal of tolls from a particular facility or facilities, require that all moneys transferred to the place of payment named in the revenue bonds, for the purpose of paying principal or interest or for redemption of the bonds not then expended for such purpose, be returned to the state treasurer for deposit in the motor vehicle fund. [1984 c 7 § 266; 1967 ex.s. c 145 § 48.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.245 Toll charges retained until costs paid. The department shall retain toll charges on all existing and future facilities until all costs of investigation, financing, acquisition of property, and construction advanced from the motor vehicle fund, and obligations incurred under RCW 47.56.250 and chapter 16, Laws of 1945 have been fully paid. With respect to every facility completed after March 19, 1953, costs of maintenance, management, and operation shall be paid periodically out of the revenues of the facility in which such costs were incurred. [1984 c 7 § 267; 1965 ex.s. c 170 § 53; 1961 c 13 § 47.56.245. Prior: 1953 c 220 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.247 Credit permits for vehicular passage. The department may issue permits for the passage of vehicles on any or all of its toll bridges, toll tunnels, toll roads, or for the Washington state ferry system on a credit basis upon such terms and conditions as the department deems proper. [1984 c 7 § 268; 1961 c 258 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 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." [1961 c 258 § 3.]

47.56.248 Credit permits for vehicular passage—Cash deposit or bond may be required—Revocation of permit. The department may require the holder of the

permit to furnish to and maintain in force with the department a cash deposit or a corporate surety bond. The department may require the holder of the permit to increase the amount of cash bond, or to furnish an additional surety bond, or may reduce the amount of the cash bond or surety bond required, as the amount of charges incurred and regularity of payment warrant, or may revoke any permit granted for failure of the holder to comply with any of its terms. [1984 c 7 § 269; 1961 c 258 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 c 258: See note following RCW 47.56.247.

47.56.253 Permits, leases, licenses to governmental entities to use property of toll facility or ferry system. If the department deems it in the public interest and not inconsistent with the use and operation of the toll facility involved, the department may on application therefor issue a permit, lease, or license to the state, or to any city, county, port district, or other political subdivision or municipal corporation of the state to use any portion of the property of any toll bridge, toll road, toll tunnel, or Washington state ferry system upon such terms and conditions as the department may prescribe. [1984 c 7 § 270; 1961 c 257 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 c 257: "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." [1961 c 257 § 7.]

47.56.255 Sale of unneeded property—Certification to governor—Execution, delivery of deed. When full payment for real property agreed to be sold as authorized by RCW 47.56.254 has been received, the department may certify this fact to the governor, with a description of the land and terms of the sale, and the governor may execute and the secretary of state shall attest the deed and deliver it to the grantee. [1984 c 7 § 271; 1973 1st ex.s. c 177 § 4; 1961 c 257 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 c 257: See note following RCW 47.56.253.

47.56.256 Department may grant franchises for utility, railway, urban public transportation purposes. If the department deems it not inconsistent with the use and operation of any department facility, the department may grant franchises to persons, associations, private or municipal corporations, the United States government, or any agency thereof, to use any portion of the property of any toll bridge, toll road, toll tunnel, or the Washington state ferry system, including approaches thereto, for the construction and maintenance of water pipes, flumes, gas pipes, telephone, telegraph, and electric light and power lines and conduits, trams or railways, any structures or facilities that are part of an urban public transportation system owned or operated by a municipal corporation, agency, or department of

the state of Washington other than the department of transportation, and any other such facilities in the manner of granting franchises on state highways. [1984 c 7 § 272; 1967 c 108 § 12; 1961 c 257 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1961 c 257: See note following RCW 47.56.253.

Urban public transportation system defined: RCW 47.04.082.

47.56.260 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.261 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.274 through 47.56.281 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.283 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.284 Additional Lake Washington bridge (1957 Act)—Continuous project—Authorization of other additional bridges. The existing Lake Washington bridge, the toll bridge authorized in chapter 266, Laws of 1957, and any other bridge hereafter constructed across Lake Washington, are hereby construed and designated as a continuous project within the terms and provisions of RCW 47.56.070; and notwithstanding the provisions of RCW 47.56.220, the department may authorize additional toll bridges across Lake Washington at such times as traffic may warrant and at such sites as deemed feasible. [1984 c 7 § 273; 1961 c 13 § 47.56.284. Prior: 1957 c 266 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.285 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.286 Additional Lake Washington bridge (1957 Act)—Interpretation. The provisions of chapter 47.56 RCW, except where inconsistent with *RCW 47.56.281 through 47.56.286, shall govern and be controlling in all matters and things necessary to carry out the purposes of *RCW 47.56.281 through 47.56.286. Nothing in *RCW 47.56.281 through 47.56.286 is intended to amend, alter, modify, or repeal any of the provisions of any statute relating to the powers and duties of the department except as such powers and duties are amplified or modified by the specific provisions of *RCW 47.56.281 through 47.56.286 for the uses and purposes herein set forth. *RCW 47.56.281 through 47.56.286 are additional to such existing statutes and concurrent therewith. [1984 c 7 § 274; 1961 c 13 § 47.56.286. Prior: 1957 c 266 § 6.]

***Reviser's note:** RCW 47.56.281, 47.56.283, and 47.56.285 were decodified by 1984 c 7 § 387.

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.287 Second Lake Washington bridge—Use of motor vehicle fund moneys to pay deficits. To the extent that revenues from the imposition of tolls and franchise fees for use of the second Lake Washington bridge authorized and constructed under the provisions of *RCW 47.56.281 are insufficient to meet costs of maintenance and operation and required payments of principal, interest, and other charges incidental to the issuance, sale, and retirement of the bonds issued pursuant to the provisions of RCW 47.56.282 or on any subsequent refunding bond issues, the department shall use moneys in the motor vehicle fund to pay such deficits. [1984 c 7 § 275; 1965 ex.s. c 170 § 54.]

*Reviser's note: RCW 47.56.281 was decodified by 1984 c 7 § 387.

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.345 Additional Columbia river bridge authorized—Construction—Severability. Except as may be otherwise specifically provided in RCW 47.56.310 through 47.56.345, the provisions of chapter 47.56 RCW shall govern and be controlling in all matters and things necessary to carry out the purposes of RCW 47.56.310 through 47.56.345. Nothing in RCW 47.56.310 through 47.56.345 is intended to amend, alter, modify, or repeal any of the provisions of any statute relating to the powers and duties of the department except as such powers and duties are amplified or modified by the specific provisions of RCW 47.56.310 through 47.56.345 for the uses and purposes herein set forth, and RCW 47.56.310 through 47.56.345 shall be additional to such existing statutes and concurrent therewith.

If any sentence, clause, or phrase of RCW 47.56.310 through 47.56.345 is held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other sentence, clause, or phrase of RCW 47.56.310 through 47.56.345.

The provisions of RCW 47.56.310 through 47.56.345 shall be liberally construed so that the uses and purposes hereof may be achieved and accomplished. [1984 c 7 § 276; 1961 c 13 § 47.56.345. Prior: 1955 c 152 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.366 Hood Canal bridge—Public sport fishing—Disclaimer of liability. The department may permit public sport fishing from the Hood Canal bridge. The department may adopt rules governing public use of the bridge for sport fishing to the end that such activity shall not interfere with the primary use and operation of the bridge as a highway facility. Notwithstanding the provisions of RCW 4.92.090 or any other statute imposing liability upon the state of Washington, the state hereby disclaims any liability arising out of loss or injury in connection with the public use of the Hood Canal bridge for sport fishing purposes. [1984 c 7 § 277; 1963 c 240 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.380 Express highway—Tacoma–Seattle–Everett—Limited access. The department is authorized to study and if feasible, after approval by the transportation commission to locate, construct, finance and operate as a toll road, until paid for, an express highway from the vicinity of Tacoma through Seattle to the vicinity of Everett. Right of way shall be acquired as a limited access facility. [1984 c 7 § 278; 1961 c 13 § 47.56.380. Prior: 1953 c 183 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.390 Express highway—Operation as toll highway—Part of state system. The toll road, when completed, shall become a part of the state highway system but may be operated as a toll highway by the department until such time as all costs of investigation, financing, acquisition of property, construction, maintenance, management, operation, repayment of advances from the motor vehicle fund, and obligations incurred under RCW 47.56.250 and chapter 16, Laws of 1945, have been fully paid. [1984 c 7 § 279; 1961 c 13 § 47.56.390. Prior: 1953 c 183 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.400 Express highway—Powers and duties of department. The department has the same powers, duties, and functions with respect to toll roads as the Washington toll bridge authority had with respect to toll bridges, and all the provisions of chapter 47.56 RCW apply to and govern toll roads insofar as is reasonably consistent and applicable, except as otherwise provided in RCW 47.56.380 through 47.56.400. [1984 c 7 § 280; 1961 c 13 § 47.56.400. Prior: 1953 c 183 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.490 Columbia river bridge at Biggs Rapids—Powers of department—Tolls. The department is authorized to operate and to assume the full control of the toll facility and each portion thereof, whether within or without the borders of the state of Washington, with full power to impose and collect tolls from the users of the bridge for the purpose of providing revenue at least sufficient to pay the cost and incidental expenses of construction, maintenance, repair, and operation of the bridge and approaches in both states, and for the payment of the principal of and interest on its revenue bonds as authorized by RCW 47.56.470. [1984 c 7 § 281; 1961 c 13 § 47.56.490. Prior: 1957 c 142 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.570 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.56.702 Columbia river, Vernita bridge and highway approach from Richland—Pledge of excise taxes imposed on motor vehicle fuels. The department may pledge the proceeds of all excise taxes imposed on motor vehicle fuels now directed by law to be deposited in the motor vehicle fund and which are available for appropriation to the department for state highway purposes in

the sum of one hundred thousand dollars per year for the purpose of guaranteeing the payment of principal and interest on bonds issued by the authority as authorized in RCW 47.56.701 or for sinking fund requirements or reserves established by the authority with respect thereto or for guaranteeing the payment of principal and interest on any subsequent refunding bond issues. To the extent of any such pledge the department shall use such moneys to meet such obligations as they arise but only to the extent that net revenues of the project are insufficient therefor. [1984 c 7 § 282; 1963 c 197 § 3.]

Reviser's note: Powers, duties, and functions of toll bridge authority transferred to department of transportation; see RCW 47.01.031. Term "toll bridge authority" means department of transportation; see RCW 47.04.015.

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.703 Columbia river, Vernita bridge and highway approach from Richland—Continued imposition of such taxes. Whenever the department has made a pledge of motor vehicle funds as authorized in RCW 47.56.702 the legislature agrees to continue to impose excise taxes on motor vehicle fuels, and there is imposed a first and prior charge thereon, in amounts sufficient to provide the department with funds necessary to enable it to comply with the pledge. [1984 c 7 § 283; 1963 c 197 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.704 Columbia river, Vernita bridge and highway approach from Richland—Repayment of motor vehicle fund money—Continuation of tolls. Any money from the motor vehicle fund used by the department for payment of expenses of location, maintenance, repair, and operation of the bridge and approaches and highway approach, and principal or interest on any bonds issued pursuant to RCW 47.56.701 or any subsequent refunding bond issue shall be repaid to the motor vehicle fund to be used for state highway purposes from revenues of the project, and tolls shall be continued for any additional length of time necessary for this purpose. [1984 c 7 § 284; 1963 c 197 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.56.720 Puget Island–Westport ferry—Payments for operation and maintenance to Wahkiakum county—Toll free operation and provision of rest room facilities, when. (1) The legislature finds that the ferry operated by Wahkiakum county between Puget Island and Westport on the Columbia river provides service which is primarily local in nature with secondary benefits to the state highway system in providing a bypass for state route 4 and providing the only crossing of the Columbia river between the Astoria–Megler bridge and the Longview bridge.

(2) The department is hereby authorized to enter into a continuing agreement with Wahkiakum county pursuant to which the department shall pay to Wahkiakum county from moneys appropriated for such purpose the sum of one thousand dollars per month to be used in the

operation and maintenance of the Puget Island ferry, commencing July 1, 1971.

Subject to the provisions of subsection (4) of this section, the department is authorized to include in the continuing agreement a provision to reimburse Wahkiakum county for sixty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry, commencing with the fiscal year ending June 30, 1972. The state's sixty percent share of the annual operating and maintenance deficit shall include the one thousand dollars per month authorized in this subsection.

(3) The annual deficit, if any, incurred in the operation and maintenance of the ferry shall be determined by Wahkiakum county subject to the approval of the department. If sixty percent of the deficit for the preceding fiscal year exceeds the total amount paid to the county for that year, the additional amount shall be paid to the county by the department upon the receipt of a properly executed voucher: *Provided*, That the total of all payments to the county in any biennium shall not exceed the amount appropriated for that biennium.

(4) Whenever, subsequent to June 9, 1977, state route 4 between Cathlamet and Longview is closed to traffic pursuant to chapter 47.48 RCW due to actual or potential slide conditions and there is no suitable, reasonably short alternate state route provided, Wahkiakum county is authorized to operate the Puget Island ferry on a toll-free basis during the entire period of such closure. The state's share of the ferry operations and maintenance deficit during such period shall be one hundred percent.

(5) Whenever state route 4 between Cathlamet and Longview is closed to traffic, as mentioned in subsection (4) hereof, the state of Washington shall provide temporary rest room facilities at the Washington ferry landing terminal. [1984 c 7 § 285; 1977 c 11 § 1; 1973 2nd ex.s. c 26 § 1; 1971 ex.s. c 254 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—1973 2nd ex.s. c 26: "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 October 1, 1973." [1973 2nd ex.s. c 26 § 3.]

47.56.725 Ferry systems operated by Pierce, Skagit, and Whatcom counties—Deficit reimbursements. (1)

The department is hereby authorized to enter into a continuing agreement with Pierce, Skagit, and Whatcom counties pursuant to which the department shall, from time to time, direct the distribution to each of the counties the amounts authorized in subsection (2) of this section in accordance with RCW 46.68.100.

(2) The department is authorized to include in each such continuing agreement a provision for the distribution to each such county funds to reimburse the county for fifty percent of the deficit incurred during each previous fiscal year in the operation and maintenance of the ferry system owned and operated by the county, commencing with the fiscal year ending June 30, 1976. The total amount to be reimbursed to Pierce, Skagit, and Whatcom counties collectively shall not exceed five hundred thousand dollars in any biennium. Each county

agreement shall contain a requirement that the county shall maintain tolls on its ferries at levels sufficient to produce aggregate annual revenues at least equal to the annual revenue of the county's ferry system in calendar year 1975.

(3) The annual fiscal year deficit, if any, shall be determined by Pierce, Skagit, and Whatcom counties subject to review and approval of the department. The annual fiscal year deficit is defined as the total of operations and maintenance expenditures less the sum of ferry toll revenues and that portion of fuel tax revenue distributions which are attributable to the county ferry as determined by the department. Distribution of the amounts authorized by subsection (2) of this section by the state treasurer shall be directed by the department upon the receipt of properly executed vouchers from each county. [1984 c 7 § 286; 1977 c 51 § 2; 1975-'76 2nd ex.s. c 57 § 2; 1975 1st ex.s. c 21 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1977 c 51: See note following RCW 46.68.100.

47.56.730 "No Smoking" areas on ferries—Establishment directed. The legislature finds that the public health, safety, and welfare require that "No Smoking" areas be established on all state ferries since there is a significant number of our citizens who are nonsmokers. The department is hereby authorized and directed to adopt rules pursuant to the administrative procedure act, chapter 34.04 RCW, to establish and clearly designate areas on all state operated ferries that are expressly reserved for use by nonsmokers. [1984 c 7 § 287; 1974 ex.s. c 10 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.58

EXISTING AND ADDITIONAL BRIDGES

Sections	
47.58.010	Improvement of existing bridge and construction of new bridge as single project—Agreement—Tolls.
47.58.020	Examinations and surveys—Preliminary expenses—Financing.
47.58.030	Construction, operation of bridges—Collection of tolls—Schedule of charges.
47.58.040	Revenue bonds—Form—Sale—Interim bonds—Deposit of proceeds.
47.58.050	Revenue bonds—Expenses includable—Conditions—Remedies of bondholders.
47.58.060	Bond resolution—Disposition of income and revenues.
47.58.080	Eminent domain.
47.58.090	Study of projects—Specific authorization of construction and finance.

47.58.010 Improvement of existing bridge and construction of new bridge as single project—Agreement—Tolls. Whenever the legislature specifically authorizes, as a single project, the construction of an additional toll bridge, including approaches, and the reconstruction of an existing adjacent bridge, including approaches, and the imposition of tolls on both bridges, the department is authorized to enter into appropriate

agreements whereunder the existing bridge or its approaches will be reconstructed and improved and an additional bridge, including approaches and connecting highways will be constructed as a part of the same project to be located adjacent to or within two miles of the existing bridge and will be financed through the issuance of revenue bonds of the same series. The department has the right to impose tolls for traffic over the existing bridge as well as the additional bridge for the purpose of paying the cost of operation and maintenance of the bridge or bridges and the interest on and creating a sinking fund for retirement of revenue bonds issued for account of such project, all in the manner permitted and provided by this chapter. [1984 c 7 § 288; 1961 c 13 § 47.58.010. Prior: 1955 c 208 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.020 Examinations and surveys—Preliminary expenses—Financing. For the purpose of obtaining information as to the necessity of the reconstruction or improvement of any such bridge and the expediency of constructing any such additional bridge it is the duty of the department to make any examination, investigation, survey, or reconnaissance pertaining thereto. The cost of any such examination, investigation, survey, or reconnaissance, and all preliminary expenses in the issuance of any revenue bonds, making surveys and appraisals and drafting, printing, issuance, and sale of bonds under this chapter, shall be advanced by any interested municipality, agency, or department of the state of Washington. All such advancements shall be reimbursed out of any proceeds derived from the sale of bonds or out of tolls and revenues to be derived by the department through its operations hereunder for account of the project, as may be agreed upon between the department and the municipality, agency, or department. [1984 c 7 § 289; 1961 c 13 § 47.58.020. Prior: 1955 c 208 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.030 Construction, operation of bridges—Collection of tolls—Schedule of charges. The secretary shall have full charge of the construction of all such improvements and reconstruction work and the construction of any additional bridge, including approaches and connecting highways, that may be authorized under this chapter and the operation of such bridge or bridges, as well as the collection of tolls and other charges for services and facilities thereby afforded. The schedule of charges for the services and facilities shall be fixed and revised from time to time by the commission so that the tolls and revenues collected will yield annual revenue and income sufficient, after payment or allowance for all operating, maintenance, and repair expenses, to pay the interest on all revenue bonds outstanding under the provisions of this chapter for account of the project and to create a sinking fund for the retirement of the revenue bonds at or prior to maturity. The charges shall be continued until all such bonds and interest thereon and unpaid advancements, if any, have been paid. [1984 c 7 § 290; 1961 c 13 § 47.58.030. Prior: 1955 c 208 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.040 Revenue bonds—Form—Sale—Interim bonds—Deposit of proceeds. For the purpose of paying the cost of all or any part of the improvement and reconstruction work and the construction of any additional bridge, approaches thereto, and connecting highways, the department is hereby authorized by resolution to issue its revenue bonds which shall constitute obligations only of the department and shall be payable from any funds available except revenue from the general fund, including but not limited to the revenues and income from the operation of the bridge or bridges constituting the project as may be provided in and by such resolution. Each such revenue bond shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by a direct charge and lien upon the tolls and revenues pledged for that purpose and that such bond does not constitute an indebtedness of the state of Washington. Such revenue bonds may bear such date or dates, may mature at such time or times as the department shall determine, may bear interest at such rate or rates, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be made subject to such terms of redemption with or without premium, and may contain such other terms and covenants not inconsistent with this chapter as may be provided in such resolution. Notwithstanding the form or tenor of the bond, and in the absence of an express recital on its face that the bond is nonnegotiable, each such revenue bond shall at all times be and shall be treated as a negotiable instrument for all purposes. All such bonds shall be signed by the state treasurer and countersigned by the governor, and any interest coupons appertaining thereto shall bear the signature of the state treasurer. The countersignature of the governor on the bonds and the signature of the state treasurer on the coupons may be their printed or lithographed facsimile signatures. Pending the issuance of definitive bonds, temporary or interim bonds, certificates, or receipts of any denomination and with or without coupons attached may be issued as may be provided by the resolution. All bonds issued under or by authority of this chapter shall be sold to the highest and best bidder at such price or prices, at such rate or rates of interest, and after such advertising for bids as the department may deem proper, but it may reject any and all bids so submitted and thereafter sell the bonds so advertised under such terms and conditions as it deems advantageous. The purchase price of all bonds issued hereunder shall be paid to the state treasurer consistent with the provisions of the resolution pursuant to which the bonds have been issued or to the trustee designated in the bond resolution and held as a separate trust fund to be disbursed on the orders of the department. [1984 c 7 § 291; 1973 c 106 § 27; 1970 ex.s. c 56 § 64; 1969 ex.s. c 232 § 78; 1961 c 102 § 1; 1961 c 13 § 47.58.040. Prior: 1955 c 208 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

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.

47.58.050 Revenue bonds—Expenses includable—Conditions—Remedies of bondholders. In determining the amount of bonds required to be issued, there may be included any expenses incurred or approved by the department in connection with and incidental to the issuance and sale of bonds and for the preparation of surveys and estimates and making inspections and examinations, required reserves, if any, interest during the estimated construction period and for six months thereafter, and a reasonable amount for initial operating expenses and prepaid insurance. The department is hereby empowered to include in any resolution authorizing the issuance of the bonds such covenants, stipulations, and conditions as it deems necessary with respect to the continued use and application of the revenues and income from the bridge or bridges. The holder of any bond or the trustee for any bonds designated by resolution may by mandamus or other appropriate proceeding compel performance of any duties imposed upon any state department, official, or employee, including any duties imposed upon or undertaken by the department or its officers, agents, and employees in connection with any improvement or reconstruction work on any existing bridge, the construction of any additional bridge, including approaches and connecting highways provided to be so constructed, the maintenance and operation of the bridge or bridges and in connection with the collection, deposit, investment, application, and disbursement of the proceeds of the bonds and the revenues and income derived from the operation of the bridge or bridges. [1984 c 7 § 292; 1961 c 13 § 47.58.050. Prior: 1955 c 208 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.060 Bond resolution—Disposition of income and revenues. Each resolution providing for the issuance of revenue bonds shall provide for setting aside the necessary amounts for the reasonable and proper operation, maintenance, and repair expenses, and shall fix and determine the amounts to be set apart and applied to the payment of the interest on and retirement of the revenue bonds. All income and revenues as collected shall be paid to the state treasurer for the account of the department as a separate trust fund to be segregated and set apart for the payment of the revenue bonds, or may be remitted to and held by a designated trustee in such manner and with such collateral as may be provided in the resolution authorizing the issuance of the bonds. [1984 c 7 § 293; 1961 c 13 § 47.58.060. Prior: 1955 c 208 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.080 Eminent domain. The department is hereby authorized and empowered to acquire in the name of the state by the exercise of the power of eminent domain any lands, property, rights, rights of way, franchises, easements, and other property of any person, firm, corporation, political subdivision, or other owner,

deemed necessary or convenient for the construction, reconstruction, improvement, and operation of any project initiated and carried on by the department under this chapter. The proceedings shall be in accordance with and subject to the provisions of any and all laws applicable to the exercise of the power of eminent domain by the state. [1984 c 7 § 294; 1961 c 13 § 47.58.080. Prior: 1955 c 208 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.58.090 Study of projects—Specific authorization of construction and finance. Under the provisions of this chapter, projects other than those specifically authorized herein involving existing bridges may be studied and analyzed by the department, and recommendations therefor may be submitted to the legislature, but such other projects shall not be financed or constructed by the department under the provisions of this chapter until further specific authorization therefor has been provided by the legislature. [1984 c 7 § 295; 1961 c 13 § 47.58.090. Prior: 1955 c 208 § 11.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 47.60

PUGET SOUND FERRY AND TOLL BRIDGE SYSTEM

Sections

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47.60.010 Ferry system, toll bridges, and facilities authorized—Power to contract, sell and lease back.

The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. The department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state

of Washington. [1984 c 18 § 1; 1984 c 7 § 296; 1961 c 13 § 47.60.010. Prior: 1949 c 179 § 1; Rem. Supp. 1949 § 6584-30.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.015 "Washington State Ferries"—**Name authorized.** The department is authorized to operate its ferry system under the name: "Washington State Ferries." [1984 c 7 § 297; 1961 c 13 § 47.60.015. Prior: 1953 c 33 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.020 Eminent domain—**Condemnation proceedings.** For the purpose of carrying out any or all of the powers granted in this chapter, the department has the power of eminent domain for the acquisition of either real or personal property, used or useful for the Puget Sound ferry system. Condemnation pursuant to this chapter shall be the procedure set out in chapter 8.04 RCW. The department may institute condemnation proceedings in the superior court of any county or other court of competent jurisdiction in which any of the property sought to be condemned is located or in which the owner of any thereof does business, and the court in any such action has 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 the proceedings. It is the intention of this section to permit the consolidation in one action of all condemnation proceedings necessary to acquire a ferry system and every type of property incident thereto, irrespective of its location within the state or diversity of ownership. 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 proceeding during the pendency thereof. The court further has the power to issue such orders or process as are necessary to place the department into possession of any property condemned. [1984 c 7 § 298; 1961 c 13 § 47.60.020. Prior: 1949 c 179 § 2; Rem. Supp. 1949 § 6584-31.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.030 Existing contracts—**Prior negotiations and bids validated.** In any case where the department takes over any property or properties which are under lease, contract, or concession, or where the department has heretofore entered into any contract or negotiation or received any bid for any of the purposes set forth in this chapter, the department is authorized to continue in effect and carry out any such contract, lease, or concession or complete any such negotiation or accept any such bid or any modification of any of them which appears advantageous to the department without regard to any limitations or directions as to the manner thereof contained in this chapter. However, this section shall not be construed as requiring the department so to act, but this section is permissive only and then only in respect to

contracts, leases, concessions, negotiations, or bids existing, entered into, or received prior to April 1, 1949. [1984 c 7 § 299; 1961 c 13 § 47.60.030. Prior: 1949 c 179 § 7; Rem. Supp. 1949 § 6584-36.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.040 Survey by department. For the purpose of obtaining information for the consideration of the department upon the acquisition of any ferries or ferry facilities or the construction of any toll bridge under this chapter, the department shall make any examination, investigation, survey, or reconnaissance for the determination of material facts pertaining thereto.

The cost of any such examination, investigation, survey, or reconnaissance, and all preliminary expenses leading up to and resulting in the issuance of any revenue bonds including, but not being limited to expenses in making surveys and appraisals and the drafting, printing, issuance, and sale of bonds under this chapter shall be borne by the department out of the motor vehicle fund. All such costs and expenses as well as any thereof heretofore incurred shall be reimbursed to the motor vehicle fund out of any proceeds derived from the sale of bonds or out of tolls and revenues to be derived by the department through its operations hereunder. [1984 c 7 § 300; 1961 c 13 § 47.60.040. Prior: 1949 c 179 § 4, part; Rem. Supp. 1949 § 6584-33, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.050 Improvement of facilities—**Financing.** Any facility that the department acquires or is authorized to acquire under the provisions of this chapter may be rehabilitated, rebuilt, enlarged, or improved, and the cost thereof may be paid from the revenues of the system or through the issuance of bonds as hereinafter provided. [1984 c 7 § 301; 1961 c 13 § 47.60.050. Prior: 1949 c 179 § 3, part; Rem. Supp. 1949 § 6584-32, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.060 Revenue bonds authorized—**Issuance**—**Conditions**—**Negotiability**—**Interim bonds.** For the purpose of paying the cost of acquiring by lease, charter, contract, purchase, condemnation, or construction all or any part of such Puget Sound ferry system, including toll bridges, approaches, and roadways incidental thereto, and for rehabilitating, rebuilding, enlarging, or improving all or any part of the system, the department is authorized by resolution to issue its revenue bonds which shall constitute obligations only of the department and shall be payable solely and only from all or such part of the revenues from the operation of the system as may be provided in and by the resolution.

Each revenue bond shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by a direct charge and lien upon the tolls and revenues pledged for that purpose and that the bond does not constitute an indebtedness of the state of Washington.

The department is empowered to include in any resolution authorizing the issuance of the bonds such covenants, stipulations, and conditions as may be deemed necessary with respect to the continued use and application of the income and revenues from the undertaking.

The revenue bonds may bear such date or dates, may mature at such time or times as the department determines, may bear interest at such rate or rates, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be made subject to such terms of redemption with or without premium, and may contain such other terms and covenants not inconsistent with this chapter as may be provided in the resolution. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, each such revenue bond shall at all times be and shall be treated as a negotiable instrument for all purposes. All such bonds shall be signed by the state treasurer and countersigned by the governor, and any interest coupons appertaining thereto shall bear the signature of the state treasurer. The countersignature of the governor on the bonds and the signature of the state treasurer on the coupons may be their printed or lithographed facsimile signatures.

Pending the issuance of definitive bonds, temporary or interim bonds, certificates, or receipts of any denomination and with or without coupons attached may be issued as may be provided by the resolution. [1984 c 7 § 302; 1973 c 106 § 28; 1970 ex.s. c 56 § 65; 1969 ex.s. c 232 § 34; 1961 c 13 § 47.60.060. Prior: 1949 c 179 § 4, part; Rem. Supp. 1949 § 6584-33, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

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.

47.60.080 Determining amount of bonds to be issued.

In determining the amount of bonds required to be issued there may be included any expenses incurred by the department in connection with and incidental to the issuance and sale of bonds and for the preparation of surveys and estimates and making inspections and examinations, interest during the estimated construction period, and for six months thereafter, and a reasonable amount for working capital and prepaid insurance. [1984 c 7 § 303; 1961 c 13 § 47.60.080. Prior: 1949 c 179 § 4, part; Rem. Supp. 1949 § 6584-33, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.090 Sale of bonds—**Deposit, disbursement of proceeds.** All bonds issued under or by authority of this chapter shall be sold to the highest and best bidder after such advertising for bids as the department deems proper. However, the department may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it deems most advantageous to its own interests. The purchase price of all bonds issued under this chapter shall be paid to the state treasurer consistent with the provisions of

the resolution pursuant to which the bonds have been issued or to the trustee designated in the bond resolution and held as a separate trust fund to be disbursed on the orders of the department. [1984 c 7 § 304; 1961 c 13 § 47.60.090. Prior: 1949 c 179 § 4, part; Rem. Supp. 1949 § 6584-33, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.113 Refunding bonds—**Authorization**—**Amount**—**Interest**—**Conditions.** The department is authorized to refund, at the maturity thereof, or before the maturity thereof if they are subject to call prior to maturity or if all of the holders thereof consent thereto, upon such terms and conditions as it deems best, any or all of its revenue bonds now or hereafter outstanding, issued for the purpose of acquiring, constructing, or reconstructing any toll bridge, toll road, toll tunnel, ferry system, or any other toll facility of any sort, or issued for the purpose of refunding such bonds, which revenue bonds are payable out of all or part of the revenues of the toll facility. Refunding bonds may be issued hereunder in a sufficient amount to provide additional funds for acquiring, constructing, reconstructing, rehabilitating, rebuilding, enlarging, or improving any toll bridge, toll road, toll tunnel, ferry system, or any other toll facility of any sort, and to pay all refunding costs and expenses and to provide adequate reserves for the toll facility and for any such refunding bonds. Various issues and series of such outstanding bonds, including refunding bonds, may be combined and refunded by a single issue of refunding bonds. The refunding bonds shall bear interest at such rates and mature at such times, without limitation by the interest rates or maturity of the bonds being refunded, and shall contain such other covenants and conditions as the department determines by resolution. [1984 c 7 § 305; 1961 c 13 § 47.60.113. Prior: 1957 c 152 § 1; 1955 c 17 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.114 Refunding bonds—**Payable from revenues.** Any refunding bonds authorized by this chapter constitute obligations of the department only and not of the state of Washington. They shall be payable solely out of all or such part of the revenues derived from the operation of the toll bridge, toll road, toll tunnel, ferry system, or any other toll facility, as shall be provided in the resolution authorizing the issuance of the refunding bonds. [1984 c 7 § 306; 1961 c 13 § 47.60.114. Prior: 1957 c 152 § 2; 1955 c 17 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.120 Other crossings—**Infringement of existing franchises**—**Protection of outstanding bonds.** If the department acquires or constructs, maintains, and operates any ferry crossings upon or toll bridges over Puget Sound or any of its tributary or connecting waters there shall not be constructed, operated, or maintained any other ferry crossing upon or bridge over any such waters within ten miles of any such crossing or bridge operated or maintained by the department excepting such bridges

or ferry crossings in existence, and being operated and maintained under a lawfully issued franchise at the time of the location of the ferry crossing or construction of the toll bridge by the department. The department shall not maintain and operate any ferry crossing or toll bridge over Puget Sound or any of its tributary or connecting waters that would infringe upon any franchise lawfully issued by the state and in existence and being exercised at the time of the location of the ferry crossing or toll bridge by the department, without first acquiring the rights granted to such franchise holder under the franchise.

While any revenue bonds issued by the department under the provisions of this chapter are outstanding no additional bonds may be issued for the purposes of acquiring, constructing, operating, or maintaining any ferries or toll bridges within the aforesaid ten mile distance by the department unless the revenues of any such additional ferries or toll bridges are pledged to the bonds then outstanding to the extent provided by the resolution authorizing the issue of the outstanding bonds. The provisions of this section are binding upon the state, and all of its departments, agencies, and instrumentalities, as well as any and all private, political, municipal, and public corporations and subdivisions, including cities, towns, counties, and other political subdivisions, and the prohibitions of this section shall restrict and limit the powers of the legislature of the state in respect to the matters herein mentioned so long as any of such bonds are outstanding and unpaid and shall be deemed to constitute a contract to that effect for the benefit of the holders of all such bonds. [1984 c 7 § 307; 1961 c 13 § 47.60.120. Prior: 1949 c 179 § 6; Rem. Supp. 1949 § 6584-35.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.122 Ferries, terminal facilities—Interim revenue warrants authorized. For the purpose of paying the cost of acquiring, constructing, or reconstructing ferries or ferry terminal facilities, and all costs which may be incurred in connection therewith, the department is authorized to issue interim revenue warrants, which shall constitute obligations only of the department, and which shall not be obligations of the state of Washington. Such warrants shall be payable solely out of part or all of the revenues derived from the operation of the Puget Sound ferry system as shall be provided in the resolution authorizing their issuance, and shall be drawn upon, and the principal thereof and interest thereon shall be payable out of, such fund or funds as shall be created in and provided by the resolution. The warrants may be interest-bearing coupon warrants with a fixed maturity date, or may be interest-bearing registered warrants payable in order of their issuance whenever there is sufficient money in the fund upon which they were drawn to redeem any of them. [1984 c 7 § 308; 1961 c 13 § 47.60.122. Prior: 1953 c 159 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.124 Revenue refunding bonds to redeem interim warrants. If it is deemed advisable or found necessary to redeem any or all of such warrants, the department is authorized to issue its revenue refunding bonds for that purpose. The bonds shall constitute obligations only of the department, and shall not be obligations of the state of Washington. The refunding bonds shall be payable solely out of part or all of the revenues derived from the operation of the Puget Sound ferry system as shall be provided in the resolution authorizing their issuance. [1984 c 7 § 309; 1961 c 13 § 47.60.124. Prior: 1953 c 159 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.126 Interim warrants and refunding bonds—Laws applicable. All provisions of chapter 47.60 RCW pertaining and applicable to the revenue bonds of the department authorized in that chapter are applicable to the warrants and revenue refunding bonds authorized herein except insofar as otherwise provided by RCW 47.60.122 through 47.60.126. [1984 c 7 § 310; 1961 c 13 § 47.60.126. Prior: 1953 c 159 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.140 System as self-liquidating undertaking—Powers of department—Concessions. The department is empowered to operate such ferry system, including all operations, whether intrastate or international, upon any route or routes, and toll bridges as a revenue-producing and self-liquidating undertaking. The department has full charge of the construction, rehabilitation, rebuilding, enlarging, improving, operation, and maintenance of the ferry system, including toll bridges, approaches, and roadways incidental thereto that may be authorized by the department, including the collection of tolls and other charges for the services and facilities of the undertaking. The department has the exclusive right to enter into leases and contracts for use and occupancy by other parties of the concessions and space located on the ferries, wharves, docks, approaches, and landings, but no such leases or contracts may be entered into for more than five years, nor without public advertisement for bids as may be prescribed by the department. However, the Colman Dock facilities may be leased for a period not to exceed ten years, and the department may accept and continue leases and contracts for a period of ten years without advertisement or bid if the leases or contracts were in effect or entered into at the time of the purchase of the Puget Sound ferry system, and any leases or contracts so made are hereby validated. [1984 c 7 § 311; 1965 ex.s. c 170 § 58; 1961 c 13 § 47.60.140. Prior: 1951 c 259 § 1; 1949 c 179 § 5, part; Rem. Supp. 1949 § 6584-34, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.160 Reimbursement of motor vehicle fund. If it be ascertained that any expense to the motor vehicle fund has been incurred in any manner under this chapter through the department or otherwise, all such expenses shall be promptly reimbursed to the motor vehicle fund

out of tolls and revenues derived by the department through any or all of its operations hereunder. [1984 c 7 § 312; 1961 c 13 § 47.60.160. Prior: 1949 c 179 § 5, part; Rem. Supp. 1949 § 6584–34, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.170 Ferries revolving fund authorized—Deposit of excess funds. Nothing in RCW 47.60.150 forbids the establishment by the department of a Washington state ferries revolving fund of not to exceed six hundred thousand dollars from the proceeds of any bonds sold under the provisions of this chapter. The fund may be deposited by the department in such banks or financial institutions as it may select throughout the state. RCW 43.01.050 does not apply to the fund or any deposits therein made by the department under this section. The department may deposit all moneys received under this chapter in the fund. All expenses whatsoever arising in the operations of the Puget Sound ferry system shall be paid from the fund, if established, by check or voucher in such manner as may be prescribed by the department.

All moneys received by the department or any employee under the foregoing sections of this chapter, except an amount of petty cash for each day's needs as fixed by the regulation of the department, shall each day and as often during the day as advisable, be deposited in the nearest authorized depository selected by the department under this section.

Whenever the fund exceeds six hundred thousand dollars, the department shall forthwith transmit the excess to the state treasurer for deposit in the trust fund established by RCW 47.60.150. [1984 c 7 § 313; 1970 ex.s. c 85 § 6; 1961 c 13 § 47.60.170. Prior: 1951 c 259 § 13.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—1970 ex.s. c 85: See note following RCW 47.60.500.

47.60.200 Consent to liability not general liability of state. Any consent to liability given under the provisions of this chapter creates liability of the department only and does not create any general liability of the state. [1984 c 7 § 314; 1961 c 13 § 47.60.200. Prior: 1951 c 259 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.210 Seamen may sue for injuries—Venue. The state consents to suits against the department by seamen for injuries occurring upon vessels of the department in accordance with the provisions of section 688, title 46, of the United States code. The venue of such actions may be in the superior court for Thurston county or the county where the injury occurred. [1984 c 7 § 315; 1961 c 13 § 47.60.210. Prior: 1951 c 259 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.220 Department as common carrier—Rights and liabilities. The department has all the obligations, duties, and rights of a common carrier of persons and property in its operation of ferries, terminals, or other

facilities used in its ferry operations, including the right to participate in joint rates and through routes, agreements, and divisions of through and joint rates with railroads and other common carriers and the right to make any filings with the interstate commerce commission, the United States maritime commission, or any other state or federal regulatory or governmental body and to comply with the lawful rules and regulations or requirements of any such body, and is subject to laws relating to carrier's liability for loss or damage to property transported, and for personal injury or death of persons transported. [1984 c 7 § 316; 1961 c 13 § 47.60.220. Prior: 1951 c 259 § 7.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.230 Liability for damages as to persons or property. In case of property loss or damage or personal injuries or death resulting from the operation of any ferry or terminal by the department, any person or the personal representative of any person, subject to and to the extent hereinafter provided, has a right of action against the department for the damage, loss, injury, or death. [1984 c 7 § 317; 1961 c 13 § 47.60.230. Prior: 1951 c 259 § 8.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.240 Liability to persons other than shippers or passengers—Limitation. The right of action extended by this chapter is applicable to loss or damage of property and/or personal injury or death resulting from the operation of ferries or terminals by the department to persons other than shippers or passengers, but any recovery of damages in such cases shall not exceed an amount equal to the limitations of the insurance carried by the department to insure it against loss for such liability. [1984 c 7 § 318; 1961 c 13 § 47.60.240. Prior: 1951 c 259 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.250 Claim for damages—Filing—Contents—Time limitations. As a condition to a recovery thereon, a verified claim against the department growing out of such damages, loss, injuries, or death must first be presented to the department and filed with the secretary within one hundred twenty days after the time when the claim accrued. If the claimant is incapacitated from verifying and filing a claim within the one hundred twenty days, or if the claimant is a minor, then the claim may be verified and presented on behalf of the claimant by his or her relative, attorney, or agent. Each claim must accurately locate and describe the event or defect that caused the damage, loss, injury, or death, reasonably describe the damage, loss, or injury, and state the time when the damage, loss, or injury occurred, give the claimant's residence for the last six months, and contain the items of damages claimed. No action may be maintained against the department upon the claim until the claim has been presented to, and filed with, the department and sixty days have elapsed after the presentation

and filing, nor more than three years after the claim accrued.

With respect to the content of the claims, this section shall be liberally construed so that substantial compliance will be deemed satisfactory. [1984 c 7 § 319; 1967 c 164 § 3; 1961 c 13 § 47.60.250. Prior: 1951 c 259 § 10.]

Severability—1984 c 7: See note following RCW 47.01.141.

Purpose—**Severability**—1967 c 164: See notes following RCW 4.96.010.

Claims against the state: Chapter 4.92 RCW.

47.60.260 Payment of claims. The department may upon such terms and conditions as it may impose and under such rules as it may adopt, pay claims arising under its operation of ferries or terminals or compromise or settle the claims. No claim may be paid by the department or any settlement or compromise of it be made except from the operating revenues of the department derived from its operation of ferries or terminals or from the proceeds of insurance recoveries. [1984 c 7 § 320; 1961 c 13 § 47.60.260. Prior: 1951 c 259 § 11.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.270 Venue of actions—Enforcement of judgment. Actions for the recovery of damages under RCW 47.60.220 through 47.60.260 may be brought in Thurston county or in the county in which the aggrieved person resides. No execution upon a judgment or attachment may be levied against the property of the department, nor does the state consent to any maritime lien against vessels of the department, but the department may be required by order of court to pay any judgment. [1984 c 7 § 321; 1961 c 13 § 47.60.270. Prior: 1951 c 259 § 12.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.280 Ferry service—Lummi Island to Orcas Island—Limitation on operation. The department is authorized and directed to establish and operate a ferry service from a suitable point on Lummi Island in Whatcom county to a suitable point on Orcas Island in San Juan county by the most feasible route if and when Whatcom county constructs a bridge from Gooseberry Point on the mainland to Lummi Island. The actual operation of the ferry service shall not begin until Whatcom county has completed the construction of such bridge. [1984 c 7 § 322; 1961 c 13 § 47.60.280. Prior: 1959 c 198 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.282 Ferry service between Port Townsend and Keystone—Operation authorized, when. The department is authorized to operate a ferry service between Port Townsend and Keystone on Admiralty Inlet if the certificate of convenience and necessity for the ferry operation is theretofore surrendered, rights thereunder are abandoned, and the ferry service is discontinued. In no event may the department undertake such a ferry service

preceding events as set forth herein or before April 1, 1973. [1984 c 7 § 323; 1972 ex.s. c 44 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.283 Ferry service between Port Townsend and Keystone—Purpose. The purpose of RCW 47.60.282 and 47.60.283 is to provide service on the ferry route between Port Townsend and Keystone to be determined by the department. Operation of this route is necessary for the economic health, safety, and welfare of the people of the state. Additionally, state operation of this route will further benefit the people of the state by providing better access to important installations maintained by the United States Navy and the United States Coast Guard. [1984 c 7 § 324; 1972 ex.s. c 44 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.300 State ferries—Scope of review—Periodic reviews required. The review shall include but not be limited to tariffs for automobiles, passengers, trucks, commutation rates, and volume discounts. The review shall give proper consideration to time of travel, distance of travel, operating costs, maintenance and repair expenses, and the resultant effect any change in tariff might have on the debt service requirements of the department as specifically provided in existing financing programs. The review shall also include the allocation of vessels to particular runs, the scheduling of particular runs, the adequacy and arrangements of docks and dock facilities, and any other subject deemed by the department to be properly within the scope of the review. The department is further authorized and directed to make a like review within every three-year period. [1984 c 7 § 325; 1961 c 13 § 47.60.300. Prior: 1959 c 199 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.350 Puget Sound reserve account—Created—Use. There is created in the motor vehicle fund the Puget Sound reserve account to the credit of which shall be deposited all moneys directed by law to be deposited therein. All moneys hereafter deposited in the account shall be used by the department only for the purposes hereinafter set forth. [1984 c 7 § 326; 1961 ex.s. c 7 § 18.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.370 Puget Sound reserve account—Specific uses enumerated. The Puget Sound reserve account shall be used by the department for the following purposes:

The department may pledge any moneys in the Puget Sound reserve account or to be deposited in that account to guarantee the payment of principal or interest on (1) bonds issued to refund the outstanding 1955 Washington state ferry system refunding bonds and the 1957 ferry and Hood Canal bridge revenue bonds, or (2) subsequent parity bonds issued to pay costs of improving the Washington state ferry system or constructing additional transportation facilities for the crossing of any part of Puget Sound other than bridging between the east side of Puget Sound to the Kitsap Peninsula, Vashon Island,

or Bainbridge Island. However, the department shall not pledge any moneys in the Puget Sound reserve account to guarantee interest or principal on such parity bonds without further express authorization by legislative act.

The department may further pledge moneys in the Puget Sound reserve account to meet any sinking fund requirements or reserves established by the department with respect to any new bond issues provided for in this section.

To the extent of any pledge authorized in this section, the department shall use the first moneys available in the Puget Sound reserve account to meet such obligations as they arise. [1984 c 7 § 327; 1961 ex.s. c 7 § 20.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.390 Puget Sound reserve account—Investment of funds not required for specified purposes. Funds in the Puget Sound reserve account of the motor vehicle fund that are not required by the department for payment of principal or interest on bond issues or for any of the other purposes authorized in RCW 47.60.370, may be invested by the department in bonds and obligations of the nature eligible for the investment of current state funds as provided in RCW 43.84.080. [1984 c 7 § 328; 1961 ex.s. c 7 § 22.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.410 Additional revenue bonds, refunding bonds, authorized, 1961 Act—"Ferry improvement fund"—Uses—Composition. If refunding bonds are issued under RCW 47.60.400, the department is directed to establish a fund to be called the "ferry improvement fund" to be used to pay all or any part of the cost of constructing, purchasing, reconstructing, replacing, extending, bettering, developing, or otherwise improving any part of the Washington state ferry system.

Into this fund the department shall place each year such sums as it finds needed for the aforesaid and available from the revenues of the ferry system and Hood Canal bridge after payment of costs of maintenance and operation, bond interest, bond reserve funds, and payments upon principal required during the year by bond resolutions. However, not more than two hundred fifty thousand dollars in any year shall be placed in such fund, and the amount accumulated in the fund shall not at any time exceed three million dollars. [1984 c 7 § 329; 1961 ex.s. c 9 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.420 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Prior charge against Puget Sound reserve account if ferry system and Hood Canal bridge revenues insufficient—Repayment. To the extent that all revenues from the Washington state ferry system and the Hood Canal bridge available therefor are insufficient to provide for the payment of principal and interest on the bonds authorized and issued under RCW 47.60.400 through 47.60.470 and for sinking fund requirements established with respect thereto and for payment into such reserves as the department has

established with respect to the securing of the bonds and for payment into the ferry improvement fund, there is imposed a first and prior charge against the Puget Sound reserve account of the motor vehicle fund created by RCW 47.60.350 through 47.60.390 and, to the extent required, against all revenues required by RCW 46.68-.100 to be deposited in the Puget Sound reserve account.

To the extent that the revenues from the Washington state ferry system and the Hood Canal bridge available therefor are insufficient to meet required payments of principal and interest on bonds, sinking fund requirements and payments into reserves and the payments into the ferry improvement fund provided in RCW 47.60-.410, the department shall use moneys in the Puget Sound reserve account for such purpose. Any moneys from the Puget Sound reserve account used by the department to pay the obligations shall be repaid by the department to the motor vehicle fund from tolls of the Washington state ferry system and the Hood Canal bridge, and tolls shall be continued for any required additional length of time necessary for this purpose. [1984 c 7 § 330; 1961 ex.s. c 9 § 3.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.450 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Revision of tolls to meet debt service. If the net revenue together with all moneys in the Puget Sound reserve account available for debt service in any fiscal year fail to meet minimum annual debt service for the year, as defined in RCW 47.60.440, the commission shall promptly revise the tolls and charges after considering supporting data and recommendations therefor which shall be furnished by a nationally recognized traffic engineering firm retained by the commission in the manner provided in the bond proceedings.

Tolls and charges shall not be increased in any case when in the opinion of the engineering firm the increase would so reduce traffic that no net gain in revenue would result. This section is a covenant for the benefit of the holders of the bonds. [1984 c 7 § 331; 1961 ex.s. c 9 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.470 Additional revenue bonds, refunding bonds, authorized, 1961 Act—Periodic reports by department to legislative transportation committee. The department shall periodically report to the legislative transportation committee its plans and progress relating to the financing and refinancing of the Washington state ferries and Hood Canal bridge, including the issuance of bonds authorized by RCW 47.60.400 through 47.60.470, to the end that the committee may be informed of plans which may affect its recommendations to the legislature. [1984 c 7 § 332; 1961 ex.s. c 9 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.500 Acquisition of additional ferries—Legislative finding—Department authority. (1) The legislature finds that the state's ferry fleet available for mass transportation of people within the urban region of

Puget Sound is critically deficient and that substantial financial assistance for the acquisition of new ferries is necessary if the Washington state ferries is to continue to fulfill its role in the Puget Sound regional urban transportation system.

(2) The department is authorized:

(a) To apply to the United States secretary of transportation for a financial grant to assist the state to acquire urgently needed ferries;

(b) To enter into an agreement with the United States secretary of transportation or other duly authorized federal officials and to assent to such conditions as may be necessary to obtain financial assistance for the acquisition of additional ferries. In connection with the agreement the department may pledge any moneys in the Puget Sound capital construction account in the motor vehicle fund or any moneys to be deposited in the account for the purpose of paying the state's share of the cost of acquiring ferries. To the extent of the pledge the department shall use the moneys available in the Puget Sound capital construction account to meet the obligations as they arise. [1984 c 7 § 333; 1970 ex.s. c 85 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Effective date—1970 ex.s. c 85: "This 1970 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 April 1, 1970." [1970 ex.s. c 85 § 9.]

47.60.540 Puget Sound ferry operations account—Transfer of excess funds. (1) Whenever in a biennium there has been paid into the Puget Sound ferry operations account sums equal to the appropriations from the account for the biennium, all additional sums accruing to the account shall forthwith be transferred from the account and shall be expended by the department pursuant to proper appropriations for state highway purposes.

(2) One month after the end of each biennium sums which were paid into the Puget Sound ferry operations account during the biennium just ended which remain unexpended shall be transferred from the account and shall be expended by the department pursuant to proper appropriation for state highway purposes. [1984 c 7 § 334; 1972 ex.s. c 24 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.550 Parking or holding area for ferry patrons in conjunction with municipal off-street parking facilities. (1) Whenever a county, city, or other municipal corporation acquires or constructs a facility to be used in whole or in part for off-street parking of motor vehicles which is in the immediate vicinity of an existing or planned ferry terminal, the department may enter into an agreement with the local governmental body providing for the use in part or at specified times of the facility as a holding area for traffic waiting to board a ferry or for parking by ferry patrons.

(2) As a part of an agreement authorized by subsection (1) of this section, the department, subject to the limitations contained in RCW 47.60.380, may pledge

any moneys in the Puget Sound capital construction account in the motor vehicle fund, or to be deposited in the account, to guarantee the payment of principal and interest on bonds issued by a county, city, or other municipal corporation to finance the acquisition or construction of the parking facility. In making the pledge, the department shall reserve the right to issue its own bonds for the purpose of paying the costs of acquiring ferry vessels with the provision that the bonds shall rank on parity with the bonds authorized by this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account.

The department shall also reserve the right to pledge moneys in the Puget Sound capital construction account to guarantee subsequent bonds issued by any county, city, or other municipal corporation to finance parking facilities as authorized in subsection (1) of this section with the provision that the subsequent bonds shall rank on parity with prior bonds guaranteed pursuant to this section as a lien upon moneys in or to be deposited in the Puget Sound capital construction account. To the extent of any pledge herein authorized, the department shall use the first moneys available in the Puget Sound capital construction account to meet the obligations as they arise. [1984 c 7 § 335; 1975-'76 2nd ex.s. c 69 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.60.560 General obligation bonds—Ferries—Authorized—Purposes—High-speed, passenger-only vessels—Issuance, sale, and retirement. In order to provide funds necessary for vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements for the Washington state ferries, there shall be issued and sold upon the request of the department general obligation bonds of the state of Washington in the sum of one hundred thirty-five million dollars or such amount thereof as may be required (together with other funds available therefor). If the state of Washington is able to obtain matching funds from the urban mass transportation administration or other federal government agencies for the acquisition of four high-speed, passenger-only vessels capable of operating as an integral part of the Washington state ferries on Puget Sound and the Straits of Juan de Fuca, a sufficient amount of the proceeds of the bonds authorized herein shall be used to pay the state's share of the acquisition cost of the high-speed, passenger-only vessels. The high-speed, passenger-only vessels shall be of existing design currently manufactured in the United States, shall have a normal cruising speed in excess of forty knots, and shall have a passenger capacity of two hundred fifty to three hundred fifty passengers. Upon request being made by the department, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in accordance with chapter 39.42 RCW. The bonds may be sold from time to time in such amounts as may be necessary for the orderly progress in constructing the ferries. [1984 c 7 § 336; 1977 ex.s. c 360 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1977 ex.s. c 360: "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 360 § 13.]

47.60.610 Excess repayment funds—Disposition. Whenever the percentage of the motor vehicle fund arising from excise taxes on motor vehicle and special fuels payable into the bond retirement fund proves more than is required for the payment of interest on bonds when due, or current retirement of bonds, any excess may, in the discretion of the state finance committee and with the concurrence of the department, be available for the prior redemption of any bonds or remain available in the fund to reduce requirements upon the fuel excise tax portion of the motor vehicle fund at the next interest or bond payment period. [1984 c 7 § 337; 1977 ex.s. c 360 § 6.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1977 ex.s. c 360: See note following RCW 47.60.560.

Chapter 47.61

ACQUISITION OF NEW FERRY VESSELS PURSUANT TO URBAN MASS TRANSPORTATION ACT OF 1964

Sections

- 47.61.010 Department may enter agreement and apply for financial assistance.
47.61.090 Bonds to provide matching funds—Designation of funds to repay bonds and interest.
47.61.120 Decodified.

47.61.010 Department may enter agreement and apply for financial assistance. Recognizing that the Washington state ferries system is an integral part of the state highway system, the department is authorized to enter into an agreement with the administrator of the housing and home finance agency and to make application for a grant for financial assistance for the acquisition by construction or purchase of new vessels pursuant to the provisions of the Urban Mass Transportation Act of 1964. [1984 c 7 § 338; 1965 ex.s. c 56 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.61.090 Bonds to provide matching funds—Designation of funds to repay bonds and interest. Funds required to repay the bonds, or the interest thereon when due, shall be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle fuels and which is, or may be appropriated to the department for state highway purposes, and shall never constitute a charge against any allocations of the funds to counties, cities, and towns unless and until the amount of the motor vehicle fund arising from the excise taxes on motor vehicle fuels and available for state highway purposes proves insufficient to meet the requirements for bond retirement or interest on the bonds. [1984 c 7 § 339; 1965 ex.s. c 56 § 9.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.61.120 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 47.64

MARINE EMPLOYEES—PUBLIC EMPLOYMENT RELATIONS

Sections

- 47.64.060 Federal social security—State employees' retirement.
47.64.080 Employee seniority rights.
47.64.280 Marine employees' commission. (Effective July 1, 1985.)
47.64.290 Toll bridge employees subject to civil service.

47.64.060 Federal social security—State employees' retirement. All employees engaged in the operation of ferries acquired by the department shall remain subject to the federal social security act and shall be under the state employees' retirement act. The department shall make such deductions from salaries of employees and contributions from revenues of the department as shall be necessary to qualify the employees for benefits under the federal social security act. The appropriate officials are authorized to contract with the secretary of health, education and welfare to effect the coverage. [1984 c 7 § 340; 1961 c 13 § 47.64.060. Prior: 1957 c 271 § 7; 1951 c 82 § 2; 1949 c 148 § 5; Rem. Supp. 1949 § 6524–26.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.64.080 Employee seniority rights. Employees employed at the time of the acquisition of any ferry or ferry system by the department have seniority rights to the position they occupy aboard the ferries or ferry system. In the event of curtailment of ferry operations for any reason, employees shall be relieved of service on the basis of their duration of employment in any ferry or ferry system acquired by the department. [1984 c 7 § 341; 1961 c 13 § 47.64.080. Prior: 1949 c 148 § 7; Rem. Supp. 1949 § 6524–28.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.64.280 Marine employees' commission. (Effective July 1, 1985.) (1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chairman of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice

and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The marine employees' commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; (c) conduct fact-finding and provide salary surveys as required in RCW 47.64.220; and (d) provide for the selection of an impartial arbitrator as required in RCW 47.64.240(5).

(3) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the marine employees' commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

The commission shall adopt rules of procedure under chapter 34.04 RCW.

The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter. [1984 c 287 § 95; 1983 c 15 § 19.]

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

47.64.290 Toll bridge employees subject to civil service. Notwithstanding any other provisions of this chapter, toll bridge employees of the marine transportation division are subject to chapter 41.06 RCW. [1984 c 48 § 2.]

Chapter 47.65

PUGET SOUND TRANSPORTATION SYSTEM— EMPLOYEES' RETIREMENT

Sections	
47.65.060	through 47.65.080 Decodified.
47.65.091	Repealed.

47.65.060 through 47.65.080 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

47.65.091 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 47.68

AERONAUTICS

(Formerly: Chapter 14.04 RCW, Aeronautics commission)

Sections	
47.68.020	Definitions.
47.68.060	Offices.
47.68.070	General powers.
47.68.080	Drafts of legislation, other duties.
47.68.100	Acquisition and disposal of airports, facilities, etc.
47.68.120	Condemnation, how exercised.
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47.68.180	Execution of necessary contracts.
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47.68.280	Investigations, hearings, etc.—Subpoenas—Compelling attendance.
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47.68.310	Enforcement of aeronautics laws.
47.68.320	Service of orders—Hearings—Review.
47.68.340	Marking hazardous structures and obstacles—Hearing to determine hazard.
47.68.350	Marking hazardous structures and obstacles—Reporting location of hazardous structures or obstacles—Subpoenas.
47.68.370	Washington wing civil air patrol—Declaration of public purpose—Consultation, cooperation, and contracts with department.
47.68.910	Repealed.

47.68.020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Department" means the state department of transportation.

(5) "Secretary" means the state secretary of transportation.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the person.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his or her duties at such school, university, or institution.

(11) "Air school" means any person who advertises, represents, or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee,

receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" means any county, city, town, authority, district, or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation. [1984 c 7 § 342; 1947 c 165 § 1; Rem. Supp. 1947 § 10964-81. Formerly RCW 14.04.020.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.060 Offices. Suitable offices and office equipment shall be provided by the state for the aeronautics division of the department of transportation in a city in the state that it may designate, and the department may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of this chapter. [1984 c 7 § 343; 1947 c 165 § 6; Rem. Supp. 1947 § 10964-86. Formerly RCW 14.04.060.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.070 General powers. The department has general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautical facilities in this state. [1984 c 7 § 344; 1947 c 165 § 7; Rem. Supp. 1947 § 10964-87. Formerly RCW 14.04.070.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.080 Drafts of legislation, other duties. The department may draft and recommend necessary legislation to advance the interests of the state in aeronautics, represent the state in aeronautical matters before federal agencies and other state agencies, and participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any controversy which involves the interest of the state in aeronautics. [1984 c 7 § 345; 1947 c 165 § 8; 1945 c 252 § 5; Rem. Supp. 1947 § 10964-88. Formerly RCW 14.04.080.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.100 Acquisition and disposal of airports, facilities, etc. The department is authorized on behalf of and

in the name of the state, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports, air navigation facilities, and air markers and/or air marking systems, either within or without the state, including the construction, installation, equipment, maintenance, and operation at the airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. For such purposes the department may by purchase, gift, devise, lease, condemnation, or otherwise, acquire property, real or personal, or any interest therein, including easements or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or to permit the removal, elimination, marking, or lighting of obstructions or airport hazards, or to prevent the establishment of airport hazards. In like manner the department may acquire existing airports and air navigation facilities. However, it shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of the municipality. The department may by sale, lease, or otherwise, dispose of any property, airport, air navigation facility, or portion thereof or interest therein. The disposal by sale, lease, or otherwise shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposals to any municipality or state government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the department deems in the best interest of the state. The department may exercise any powers granted by this section jointly with any municipalities, agencies, or departments of the state government, with other states or their municipalities, or with the United States. [1984 c 7 § 346; 1947 c 165 § 10; Rem. Supp. 1947 § 10964–90. Formerly RCW 14.04.100.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.120 Condemnation, how exercised. In the condemnation of property authorized by this chapter, the department shall proceed in the name of the state in the manner that property is acquired by the department for public uses. [1984 c 7 § 347; 1947 c 165 § 12; Rem. Supp. 1947 § 10964–92. Formerly RCW 14.04.120.]

Severability—1984 c 7: See note following RCW 47.01.141.

Acquisition of highway property: Chapter 47.12 RCW.
Eminent domain by state: Chapter 8.04 RCW.

47.68.130 Contracts or leases of facilities in operating airports. In operating an airport or air navigation facility owned or controlled by the state, the department may enter into contracts, leases, and other arrangements for a term not exceeding twenty-five years with any persons. The department may grant the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes, confer the privilege of supplying goods, commodities, things, services, or facilities at the

airport or air navigation facility, or make available services to be furnished by the department or its agents at the airport or air navigation facility. In each case the department may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the cost of operation to the state. In no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility, or portion or facility thereof. [1984 c 7 § 348; 1947 c 165 § 13; Rem. Supp. 1947 § 10964–93. Formerly RCW 14.04.130.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.150 Lien for state's charges. To enforce the payment of any charges for repairs to, improvements, storage, or care of any personal property made or furnished by the department or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the department as provided by law. [1984 c 7 § 349; 1947 c 165 § 15; Rem. Supp. 1947 § 10964–95. Formerly RCW 14.04.150.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.170 State airways system. The department may designate, design, and establish, expand, or modify a state airways system that will best serve the interest of the state. It may chart the airways system and arrange for publication and distribution of such maps, charts, notices, and bulletins relating to the airways as may be required in the public interest. The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, if the facilities conform to federal safety standards. [1984 c 7 § 350; 1947 c 165 § 17; Rem. Supp. 1947 § 10964–97. Formerly RCW 14.04.170.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.180 Execution of necessary contracts. The department may enter into any contracts necessary to the execution of the powers granted it by this chapter. All contracts made by the department, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts. Where the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal moneys, the department as agent of the state or of any municipality, may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder. [1984 c 7 § 351; 1947 c 165 § 18; Rem. Supp. 1947 § 10964–98. Formerly RCW 14.04.180.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.185 Establishment of procedures required by conditions of federal transfers of facilities. The department is authorized to establish the necessary accounts or administrative procedures required by conditions attached to transfers of airport facilities from the federal government to the state of Washington. [1984 c 7 § 352; 1963 c 73 § 1. Formerly RCW 14.04.185.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.190 Exclusive grants prohibited. The department shall not grant any exclusive right for the use of any landing area or air navigation facility under its jurisdiction. This section shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to this chapter. [1984 c 7 § 353; 1947 c 165 § 19; Rem. Supp. 1947 § 10964–99. Formerly RCW 14.04.190.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.200 Exercise of powers, public and governmental purpose. The acquisition of any lands or interest therein pursuant to this chapter, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipality or municipalities, and the exercise of any other powers herein granted to the department are public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this chapter shall and are declared to be acquired and used for public and governmental purposes and as a matter of public necessity. [1984 c 7 § 354; 1947 c 165 § 20; Rem. Supp. 1947 § 10964–100. Formerly RCW 14.04.200.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.233 Registration of pilots—Certificates—Fees—Exemptions—Use of fees. The department shall require that every pilot who is a resident of this state and every nonresident pilot who regularly operates any aircraft in this state be registered with the department for each calendar year by January 31st thereof. The department shall charge an annual fee not to exceed five dollars for each registration. Registration under this section is required thirty days after June 8, 1967. All registration certificates issued under this section expire on December 31st of each year.

The registration fee imposed by this section shall be used by the department for the purpose of (a) search and rescue of lost and downed aircraft and airmen under the direction and supervision of the secretary and (b) safety and education.

Registration shall be effected by filing with the department a certified written statement that contains the information reasonably required by the department. The department shall issue certificates of registration and in connection therewith shall prescribe requirements for the possession and exhibition of the certificates.

The provisions of this section do not apply to:

(1) A pilot who operates an aircraft exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia;

(2) A pilot registered under the laws of a foreign country;

(3) A pilot engaged exclusively in commercial flying constituting an act of interstate or foreign commerce;

(4) A person piloting an aircraft equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for instruction or for the demonstration of the aircraft to a bona fide prospective purchaser.

Failure to register as provided in this section is a violation of RCW 47.68.230 and subjects the offender to the penalties incident thereto. [1984 c 7 § 355; 1983 c 3 § 143; 1967 c 207 § 2. Formerly RCW 14.04.233.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.280 Investigations, hearings, etc.—Subpoenas—Compelling attendance. The department or any officer or employee of the department designated by it has the power to hold investigations, inquiries, and hearings concerning matters covered by this chapter including accidents in aeronautics within this state. Hearings shall be open to the public and, except as hereinafter provided, shall be held upon such call or notice as the department deems advisable. The department and every officer or employee of the department designated by it to hold any inquiry, investigation, or hearing has the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance of witnesses and the production of papers, books and documents. In case of the failure of a person to comply with a subpoena or order issued under the authority of this section, the department or its authorized representatives may invoke the aid of a competent court of general jurisdiction. The court may thereupon order the person to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof. [1984 c 7 § 356; 1947 c 165 § 28; Rem. Supp. 1947 § 10964–108. Formerly RCW 14.04.280.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.290 Joint hearings—Cooperation. The department may confer with or hold joint hearings with any agency of the United States in connection with any matter arising under this chapter or relating to the development of aeronautics.

The department may avail itself of the cooperation, services, records, and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this chapter, and shall furnish to the agencies of the United States such services, records, and facilities as are practicable.

The department shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed, and shall in so far as is practicable preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation. [1984 c 7 § 357; 1947 c 165 § 29; Rem. Supp. 1947 § 10964–109. Formerly RCW 14.04.290.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.300 State and municipal agencies to cooperate.

In carrying out this chapter the department may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and the agencies and municipalities are authorized and directed to make available their facilities and services. [1984 c 7 § 358; 1947 c 165 § 30; Rem. Supp. 1947 § 10964–110. Formerly RCW 14.04.300.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.310 Enforcement of aeronautics laws. It is the duty of the secretary, the department, the officers and employees of the department, and every state and municipal officer charged with the enforcement of state and municipal laws to enforce and assist in the enforcement of this chapter and of all other laws of this state relating to aeronautics. The secretary and those officers or employees of the department designated by the secretary in writing are granted police powers solely for the enforcement of state aeronautics laws and the rules having the effect of law. [1984 c 7 § 359; 1955 c 204 § 1; 1947 c 165 § 31; Rem. Supp. 1947 § 10964–111. Formerly RCW 14.04.310.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.320 Service of orders—Hearings—Review. Every order of the department requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate, or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the department will be given or the approval, license, or certificate granted or restored, or the order modified or changed. Orders issued by the department under this chapter shall be served upon the persons affected either by certified mail or in person. In every case where notice and opportunity for a hearing are required under this chapter, the order of the department shall, on not less than ten days notice, specify a time when and place where the person affected may be heard, or the time within which the person may request a hearing, and the order shall become effective upon the expiration of the time for exercising the opportunity for a hearing, unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the department affirms, disaffirms, or modifies the order after a hearing has been held or default by the person has been affected. To the extent practicable, hearings on the orders shall be in the county

where the affected person resides or does business. Any person aggrieved by an order of the department or by the grant, denial, or revocation of an approval, license, or certificate may have the action of the department reviewed by the courts of this state under chapter 34.04 RCW. [1984 c 7 § 360; 1947 c 165 § 32; Rem. Supp. 1947 § 10964–112. Formerly RCW 14.04.320.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.340 Marking hazardous structures and obstacles—Hearing to determine hazard. A structure or obstacle that obstructs the air space above ground or water level, when determined by the department after a hearing to be a hazard or potential hazard to the safe flight of aircraft, shall be plainly marked, illuminated, painted, lighted, or designated in a manner to be approved in accordance with the general rules of the department so that the structure or obstacle will be clearly visible to airmen. In determining which structures or obstacles constitute or may become a hazard to air flight, the department shall take into account only those obstacles located at river, lake, and canyon crossings and in other low-altitude flight paths usually traveled by aircraft. [1984 c 7 § 361; 1961 c 263 § 2. Formerly RCW 14.04.340.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.350 Marking hazardous structures and obstacles—Reporting location of hazardous structures or obstacles—Subpoenas. The secretary may require owners, operators, lessees, or others having the control or management of structures or obstacles over one hundred fifty feet above ground or water level and that are or may become a hazard to air flight to report the location of the existing or proposed structures or obstacles to the department. For that purpose the secretary may issue subpoenas and subpoenas duces tecum returnable within twenty days to the department. If a person refuses to obey the secretary's subpoena, the department may certify to the superior court all facts of the refusal. The court shall summarily hear evidence on the refusal, and, if the evidence warrants, punish the person refusing in the same manner and to the same extent as a contempt committed before the court. [1984 c 7 § 362; 1961 c 263 § 3. Formerly RCW 14.04.350.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.370 Washington wing civil air patrol—Declaration of public purpose—Consultation, cooperation, and contracts with department. It is the public policy of the state of Washington to direct the financial resources of this state toward the support and aid of air search, rescue, and emergency services within the state in order to promote the general welfare of its citizens. The legislature further declares that the operation of crash, rescue, emergency operations, and organization communications in the event of natural or other disasters, the performance of emergency missions for other federal and state agencies such as the patrol of forests, pipelines, flood areas, the transportation of critical parts

and supplies, and the education and character development of our young people with the cadet program of the Washington wing civil air patrol serves the public interest. The Washington wing civil air patrol is a nonprofit, federally chartered, private corporation, which is an auxiliary of the United States Air Force and is engaged in cooperation with the national, state, and local emergency services effort and the department, which serves the public interest and purpose, and is staffed by civilian volunteers engaged in their contribution to the public welfare with no reimbursement for their efforts.

In expending moneys appropriated by the legislature, the Washington wing civil air patrol shall consult and cooperate with the department so that maximum education and development in aeronautical matters can be accomplished and the maximum contribution to emergency services can be made.

The department may contract with the Washington wing civil air patrol to accomplish the purposes set forth in this section, and to furnish accommodations, goods, and services to the Washington wing civil air patrol as may be necessary to accomplish the purposes of this section. [1984 c 7 § 363; 1975-'76 2nd ex.s. c 73 § 1. Formerly RCW 14.04.370.]

Severability—1984 c 7: See note following RCW 47.01.141.

47.68.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 48 INSURANCE

Chapters

- 48.09 Mutual insurers.
- 48.17 Agents, brokers, solicitors, and adjusters.
- 48.21 Group and blanket disability insurance.
- 48.21A Disability insurance—Extended health.
- 48.27 Property insurance.
- 48.30 Unfair practices and frauds.
- 48.42 Health care coverage, general authority.
- 48.44 Health care services.
- 48.46 Health maintenance organizations.

Chapter 48.09 MUTUAL INSURERS

Sections

- 48.09.350 Reorganization of mutual as stock insurer—Reinsurance—Approval.
- 48.09.360 Distribution of assets and ownership equities upon liquidation.

48.09.350 Reorganization of mutual as stock insurer—Reinsurance—Approval. (1) Upon satisfaction of the requirements applicable to the formation of a domestic stock insurer, a domestic mutual insurer may be reorganized as a stock corporation, pursuant to a plan of reorganization as approved by the commissioner.

(2) A domestic mutual insurer may be wholly reinsured in and its assets transferred to and its liabilities assumed by another mutual or stock insurer under such terms and conditions as are approved by the commissioner in advance of such reinsurance.

(3) The commissioner shall not approve any such reorganization plan or reinsurance agreement which does not determine the amount of and make adequate provision for paying to members of such mutual insurer, reasonable compensation for their equities as owners of such insurer, such compensation to be apportioned to members as identified and in the manner prescribed in RCW 48.09.360. The procedure for approval by the commissioner of any such reorganization plan or reinsurance agreement shall be the same as the procedure for approval by the commissioner of a plan of merger or consolidation under RCW 48.31.010.

Approval at a corporate meeting of members by two-thirds of the then members of a domestic mutual insurer who vote on the plan or agreement pursuant to such notice and procedure as was approved by the commissioner shall constitute approval of any such reorganization plan or reinsurance agreement by the insurer's members. [1984 c 23 § 1; 1983 1st ex.s. c 32 § 1; 1947 c 79 § .09.35; Rem. Supp. 1947 § 45.09.35.]

48.09.360 Distribution of assets and ownership equities upon liquidation. (1) Upon the liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness and policy obligations shall be distributed to its members who were such within the thirty-six months prior to the last termination of its certificate of authority.

(2) Upon the reorganization of a domestic mutual insurer as a domestic stock insurer under RCW 48.09.350(1) or upon reinsurance of the whole of the liabilities and transfer of all the assets of a domestic mutual insurer under RCW 48.09.350(2), the ownership equities of members of the domestic mutual insurer shall be distributed to its members who were such on an eligibility date stated in the reorganization plan or reinsurance agreement, or who were such within the thirty-six months prior to such eligibility date. Such eligibility date shall be either the date on which the reorganization plan or reinsurance agreement is adopted by resolution of the board of directors of the domestic mutual insurer, or the date on which the reorganization plan or reinsurance agreement is approved by a vote of the members, or the date which ends a calendar quarter during which either of such actions is taken.

(3) Upon the liquidation of a domestic mutual insurer, the distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the thirty-six months before the last termination of the insurer's certificate of authority, bear to the aggregate of all premiums so earned on the policies of all such members during the same thirty-six months.

(4) Upon the reorganization of a domestic mutual insurer as a domestic stock insurer under RCW

48.09.350(1) or upon reinsurance of the whole of the liabilities and transfer of all the assets of a domestic mutual insurer under RCW 48.09.350(2), the distributive share of each member entitled thereto shall be in the proportion that the aggregate premiums earned by the insurer on the policies in force of that member during the thirty–six months before the eligibility date established under RCW 48.09.360(2) bear to the aggregate of all premiums so earned during the same thirty–six months on all the policies in force of all such members who are entitled to a distributive share.

(5) If a life insurer, the insurer shall make a reasonable classification of its life insurance policies so held by such members entitled to a distributive share and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the commissioner's approval. [1984 c 23 § 2; 1947 c 79 § .09.36; Rem. Supp. 1947 § 45.09.36.]

Chapter 48.17

AGENTS, BROKERS, SOLICITORS, AND ADJUSTERS

Sections

48.17.135 Insurance advisory examining board. (Effective July 1, 1985.)

48.17.135 Insurance advisory examining board. (Effective July 1, 1985.) (1) There is hereby created an insurance advisory examining board, hereafter referred to as the examining board or the board.

(2) The examining board shall consist of seven members, the commissioner who shall serve ex officio as a member and shall act as chairman, and six members appointed by the commissioner. Appointments shall be made within thirty days after June 8, 1967.

(3) The insurance commissioner as chairman shall keep a record of all proceedings of the board, send out notices of meetings of the board, draft rules and regulations of the board, and perform such other duties as may be required.

(4) The members of the board appointed by the commissioner shall have been licensed insurance agents or brokers of this state for at least five years prior to their appointments, three of whom shall have been engaged in the life or disability fields and the remaining three in other insurance fields. Consistent with the representation on the board, it may function as two separate committees, at which meetings the commissioner shall also preside.

(5) The first terms for members of the examining board appointed by the commissioner shall be as follows: Two members for one year; two members for two years; two members for three years. Thereafter, the terms shall be for three years and until their successors are appointed and qualified.

(6) The examining board, or any committee of the board, shall meet at the call of the commissioner. A majority of the members of the board or of a committee

shall constitute a quorum for the transaction of business by the board or a committee of the board.

(7) The board shall have the advisory power:

(a) To recommend general policy concerning the scope, contents, procedure and conduct of examinations to be given for respective licenses as agent, broker and solicitor.

(b) To recommend the questions comprising each particular such examination and from time to time to change such questions as the board deems advisable, and where examinations are composed by the board results of these examinations shall be evaluated by the board.

(c) To review other state insurance examination papers and the grading thereof.

(d) To recommend the scope and contents of material furnished agent, broker or solicitor examination applicants by the commissioner under RCW 48.17.120 for the purpose of preparing for any such examination.

(e) To recommend rules and regulations for the procedure to be followed in the conduct of such examinations, including, but not limited to, application for examination, frequency and place of examinations, minimum waiting period before reexamination, monitoring, and the safeguarding of examination questions and papers. The board shall file copies of all such rules and regulations, and of all amendments or modifications thereof, with the commissioner and with the code reviser for public inspection and information.

(f) To make such recommendations to the commissioner in regard to the administration of the examination requirement as the board from time to time deems appropriate.

(8) Members may be removed by the commissioner for any cause which unreasonably interferes with the proper discharge of the responsibilities of the board or any member thereof. Any vacancy shall be filled by the commissioner within ninety days after it occurs by appointment for the remainder of the unexpired term.

(9) Appointed members of the examining board shall be reimbursed for their travel expenses incurred in the actual performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(10) The powers and recommendations of the examining board shall be advisory only. [1984 c 287 § 96; 1975-'76 2nd ex.s. c 34 § 142; 1967 c 150 § 14.]

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.

Chapter 48.21

GROUP AND BLANKET DISABILITY INSURANCE

Sections

48.21.210 Repealed.
 48.21.220 Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded.
 48.21.250 Continuation option to be offered.
 48.21.260 Conversion policy to be offered—Exceptions, conditions.
 48.21.270 Conversion policy—Restrictions and requirements.

48.21.210 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

48.21.220 Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded. (1) Every insurer entering into or renewing group or blanket disability insurance policies governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and may restrict benefits to, services rendered by home health and hospices certified by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW. [1984 c 22 § 1; 1983 c 249 § 1.]

Effective date—1984 c 22: "This act shall take effect July 1, 1984." [1984 c 22 § 8.]

Effective date—1983 c 249: See note following RCW 70.126.001. *Home health care, hospice care, rules: Chapter 70.126 RCW.*

48.21.250 Continuation option to be offered. Every insurer that issues policies providing group coverage for

hospital or medical expense shall offer the policyholder an option to include a policy provision granting a person who becomes ineligible for coverage under the group policy, the right to continue the group benefits for a period of time and at a rate agreed upon. The policy provision shall provide that when such coverage terminates, the covered person may convert to a policy as provided in RCW 48.21.260. [1984 c 190 § 2.]

Legislative intent—1984 c 190: "The legislature recognizes that when people covered by a group health insurance policy lose their group insurance benefits because they are no longer eligible, they need time to obtain a suitable form of replacement coverage or time to complete a reasonable course of medical treatment for a health condition that existed when the group benefits ended.

Spouses and dependents can lose their group insurance and may not have any other health insurance when one spouse covered under a group policy dies, obtains a divorce, or becomes unemployed. Often the cost of an individual policy prevents these persons from obtaining any other health insurance.

The intent of *this act is to require insurers, health care service contractors, and health maintenance organizations to:

(1) Offer to the contract holder the option to continue health and medical benefits for employees, members, spouses, or dependents whose eligibility for coverage under a group policy, contract, or agreement is terminated; and

(2) Provide a conversion policy, contract, or agreement to employees, members, spouses, or dependents whose eligibility for coverage under a group policy, contract, or agreement is terminated." [1984 c 190 § 1.] *"This act" consists of the enactment of RCW 48.21.250, 48.21.260, 48.21.270, 48.44.360, 48.44.370, 48.44.380, 48.46.440, 48.46.450, and 48.46.460 and the repeal of RCW 48.21.210, 48.44.280, and 48.46.065.

Application—1984 c 190: "RCW 48.21.250, 48.44.360, and 48.46.440 shall apply to any policy, contract, or agreement issued, renewed, or amended on or after January 1, 1985." [1984 c 190 § 12.]

Severability—1984 c 190: "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 190 § 13.]

48.21.260 Conversion policy to be offered—Exceptions, conditions. (1) Except as otherwise provided by this section, any group disability insurance policy issued, renewed, or amended on or after January 1, 1985, that provides benefits for hospital or medical expenses shall contain a provision granting a person covered by the group policy the right to obtain a conversion policy from the insurer upon termination of the person's eligibility for coverage under the group policy.

(2) An insurer need not offer a conversion policy to:

(a) A person whose coverage under the group policy ended when the person's employment or membership was terminated for misconduct: *Provided*, That when a person's employment or membership is terminated for misconduct, a conversion policy shall be offered to the spouse and/or dependents of the terminated employee or member. The policy shall include in the conversion provisions the same conversion rights and conditions which are available to employees or members and their spouses and/or dependents who are terminated for reasons other than misconduct;

(b) A person who is eligible for federal Medicare coverage; or

(c) A person who is covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) To obtain the conversion policy, a person must submit a written application and the first premium payment for the conversion policy not later than thirty-one days after the date the person's group coverage terminates. The conversion policy shall become effective, without lapse of coverage, immediately following termination of coverage under the group policy.

(4) If an insurer or group policyholder does not renew, cancels, or otherwise terminates the group policy, the insurer shall offer a conversion policy to any person who was covered under the terminated policy unless the person is eligible to obtain group hospital or medical expense coverage within thirty-one days after such nonrenewal, cancellation, or termination of the group policy.

(5) The insurer shall determine the premium for the conversion policy in accordance with the insurer's table of premium rates applicable to the age and class of risk of each person to be covered under the policy and the type and amount of benefits provided. [1984 c 190 § 3.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

48.21.270 Conversion policy—Restrictions and requirements. (1) An insurer shall not require proof of insurability as a condition for issuance of the conversion policy.

(2) A conversion policy may not contain an exclusion for preexisting conditions except to the extent that a waiting period for a preexisting condition has not been satisfied under the group policy.

(3) An insurer must offer at least three policy benefit plans that comply with the following:

(a) A major medical plan with a five thousand dollar deductible and a lifetime benefit maximum of two hundred fifty thousand dollars per person;

(b) A comprehensive medical plan with a five hundred dollar deductible and a lifetime benefit maximum of five hundred thousand dollars per person; and

(c) A basic medical plan with a one thousand dollar deductible and a lifetime maximum of seventy-five thousand dollars per person.

(4) The insurance commissioner may revise the deductibles and lifetime benefit amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion policies.

(6) The commissioner shall adopt rules to establish specific standards for conversion policy provisions. These rules may include but are not limited to:

(a) Terms of renewability;

(b) Nonduplication of coverage;

(c) Benefit limitations, exceptions, and reductions; and

(d) Definitions of terms. [1984 c 190 § 4.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

Chapter 48.21A

DISABILITY INSURANCE—EXTENDED HEALTH

Sections

48.21A.090 Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded.

48.21A.090 Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded. (1) Every insurer entering into or renewing extended health insurance governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and may restrict benefits to, services rendered by home health and hospices certified by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW. [1984 c 22 § 2; 1983 c 249 § 2.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.

Home health care, hospice care, rules: Chapter 70.126 RCW.

Chapter 48.27 PROPERTY INSURANCE

Sections
48.27.010 Over-insurance prohibited.

48.27.010 Over-insurance prohibited. (1) Over-insurance shall be deemed to exist if property or an insurable interest therein is insured by one or more insurance contracts against the same hazard in any amount in excess of the fair value of the property or of such interest, as determined as of the effective date of the insurance or of any renewal thereof, or in those instances when insured value is for improvements and land.

(2) For the purposes of this section only the term "fair value" means the cost of replacement less such depreciation as is properly applicable to the subject insured.

(3) No person shall knowingly require, request, issue, place, procure, or accept any insurance contract which would result in over-insurance of the property or interest therein proposed to be insured, except as is provided in RCW 48.27.020.

(4) No person shall compel an insured or applicant for insurance to procure property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy (or combination of policies) in the event of a loss, whether such insurance is required in connection with a loan or otherwise.

(5) Each violation of this section shall subject the violator to the penalties provided by this code. [1984 c 6 § 1; 1947 c 79 § .27.01; Rem. Supp. 1947 § 45.27.01.]

Chapter 48.30 UNFAIR PRACTICES AND FRAUDS

Sections
48.30.260 Right of debtor or borrower to select agent, broker, insurer.

48.30.260 Right of debtor or borrower to select agent, broker, insurer. (1) Every debtor or borrower, when property insurance of any kind is required in connection with the debt or loan, shall have reasonable opportunity and choice in the selection of the agent, broker, and insurer through whom such insurance is to be placed; but only if the insurance is properly provided for the protection of the creditor or lender not later than at commencement of risk as to such property as respects such creditor or lender, and in the case of renewal of insurance, only if the renewal policy, or a proper binder therefor containing a brief description of the coverage bound and the identity of the insurer in which the coverage is bound, is delivered to the creditor or lender not later than thirty days prior to the renewal date.

(2) Every person who lends money or extends credit and who solicits insurance on real and personal property must explain to the borrower in prominently displayed

writing that the insurance related to such loan or credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subsection (3)(b) of this section.

(3) No person who lends money or extends credit may:

(a) Solicit insurance for the protection of real property, after a person indicates interest in securing a real estate loan or credit extension, until such person has received a commitment from the lender as to a loan or credit extension;

(b) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(c) Require that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subsection does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(d) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(e) Require any procedures or conditions of duly licensed agents, brokers, or insurers not customarily required of those agents, brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit; or

(f) Require property insurance in an amount in excess of the amount which could reasonably be expected to be paid under the policy, or combination of policies, in the event of a loss.

(4) Nothing contained in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(5) Nothing contained in this section shall apply to credit life or credit disability insurance. [1984 c 6 § 2; 1977 c 61 § 1; 1957 c 193 § 20.]

Chapter 48.42
HEALTH CARE COVERAGE, GENERAL
AUTHORITY

Sections

48.42.060	Mandated health coverage—Legislative finding.
48.42.070	Mandated health coverage—Report to legislative committees.
48.42.080	Mandated health coverage—Guidelines for assessing impact.

48.42.060 Mandated health coverage—Legislative finding. The legislature takes notice of the increasing number of proposals for the mandating of certain health coverages or offering of health coverages by insurance carriers, health care service contractors, and health maintenance organizations as a component of individual or group policies. Improved access to these health care services to segments of the population which desire them can provide beneficial social and health consequences which may be in the public interest.

However, the cost ramifications of expanding health coverages is resulting in a growing concern. The way that such coverages are structured and the steps taken to create incentives to provide cost-effective services or to take advantage of cost off-setting features of services can significantly influence the cost impact of mandating particular coverages.

The merits of a particular coverage mandate must be balanced against a variety of consequences which may go far beyond the immediate impact upon the cost of insurance coverage. The legislature hereby finds and declares that a systematic review of proposed mandated or mandatorily offered health coverage, which explores all the ramifications of such proposed legislation, will assist the legislature in determining whether mandating a particular coverage or offering is in the public interest. This chapter provides for a set of guidelines which should be addressed in the consideration of all such mandated coverage proposals coming before the legislature. [1984 c 56 § 1.]

48.42.070 Mandated health coverage—Report to legislative committees. Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. [1984 c 56 § 2.]

48.42.080 Mandated health coverage—Guidelines for assessing impact. Guidelines for assessing the impact of proposed mandated or mandatorily offered health coverage to the extent that information is available, shall include, but not be limited to, the following:

(1) The social impact: (a) To what extent is the treatment or service generally utilized by a significant

portion of the population? (b) To what extent is the insurance coverage already generally available? (c) If coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatments? (d) If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship? (e) What is the level of public demand for the treatment or service? (f) What is the level of public demand for insurance coverage of treatment or service? (g) What is the level of interest of collective bargaining agents in negotiating privately for inclusion of this coverage in group contracts?

(2) The financial impact: (a) To what extent will the coverage increase or decrease the cost of treatment or service? (b) To what extent will the coverage increase the appropriate use of the treatment or service? (c) To what extent will the mandated treatment or service be a substitute for more expensive treatment or service? (d) To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders? (e) What will be the impact of this coverage on the total cost of health care? [1984 c 56 § 3.]

Chapter 48.44
HEALTH CARE SERVICES

Sections

48.44.026	Payment for certain health care services.
48.44.212	Coverage of dependent children to include newborn infants and congenital anomalies from moment of birth—Notification period.
48.44.280	Repealed.
48.44.320	Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded.
48.44.360	Continuation option to be offered.
48.44.370	Conversion contract to be offered—Exceptions, conditions.
48.44.380	Conversion contract—Restrictions and requirements.

48.44.026 Payment for certain health care services. Checks in payment for claims pursuant to any health care service contract for health care services provided by persons licensed or regulated under chapters 18.22, 18.25, 18.29, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, or 18.88 RCW, where the provider is not a participant under a contract with the health care service contractor, shall be made out to both the provider and the insured, jointly, to require endorsement by each: *Provided*, That payment shall be made in the single name of the insured if the insured as part of his or her claim furnishes evidence of prepayment to the health care service provider: *And provided further*, That nothing in this section shall preclude a health care service contractor from voluntarily issuing payment in the single name of the provider. [1984 c 283 § 1; 1982 c 168 § 1.]

48.44.212 Coverage of dependent children to include newborn infants and congenital anomalies from moment of birth—Notification period. (1) Any health care

service plan contract under this chapter delivered or issued for delivery in this state more than one hundred twenty days after February 16, 1974, which provides coverage for dependent children of the insured or covered group member, shall provide coverage for newborn infants of the insured or covered group member from and after the moment of birth. Coverage provided in accord with this section shall include, but not be limited to, coverage for congenital anomalies of such infant children from the moment of birth.

(2) If payment of an additional premium is required to provide coverage for a child, the contract may require that notification of birth of a newly born child and payment of the required premium must be furnished to the contractor. The notification period shall be no less than sixty days from the date of birth. This subsection applies to policies issued or renewed on or after January 1, 1984. [1984 c 4 § 1; 1983 c 202 § 5; 1974 ex.s. c 139 § 3.]

48.44.280 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

48.44.320 Home health care, hospice care, optional coverage required—Standards, limitations, restrictions—Rules—Medicare supplemental contracts excluded. (1) Every health care service contractor entering into or renewing a group health care service contract governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and may restrict benefits to, services rendered by home health and hospices certified by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits

per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW. [1984 c 22 § 3; 1983 c 249 § 3.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.
Home health care, hospice care, rules: Chapter 70.126 RCW.

48.44.360 Continuation option to be offered. Every health care service contractor that issues group contracts providing group coverage for hospital or medical expense shall offer the contract holder an option to include a contract provision granting a person who becomes ineligible for coverage under the group contract, the right to continue the group benefits for a period of time and at a rate agreed upon. The contract provision shall provide that when such coverage terminates, the covered person may convert to a contract as provided in RCW 48.44.370. [1984 c 190 § 5.]

Legislative intent—Application—Severability—1984 c 190: See notes following RCW 48.21.250.

48.44.370 Conversion contract to be offered—Exceptions, conditions. (1) Except as otherwise provided by this section, any group health care service contract entered into or renewed on or after January 1, 1985, that provides benefits for hospital or medical expenses shall contain a provision granting a person covered by the group contract the right to obtain a conversion contract from the contractor upon termination of the person's eligibility for coverage under the group contract.

(2) A contractor need not offer a conversion contract to:

(a) A person whose coverage under the group contract ended when the person's employment or membership was terminated for misconduct: *Provided*, That when a person's employment or membership is terminated for misconduct, a conversion policy shall be offered to the spouse and/or dependents of the terminated employee or member. The policy shall include in the conversion provisions the same conversion rights and conditions which are available to employees or members and their spouses and/or dependents who are terminated for reasons other than misconduct;

(b) A person who is eligible for federal Medicare coverage; or

(c) A person who is covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) To obtain the conversion contract, a person must submit a written application and the first premium payment for the conversion contract not later than thirty-one days after the date the person's eligibility for group

coverage terminates. The conversion contract shall become effective, without lapse of coverage, immediately following termination of coverage under the group contract.

(4) If a health care service contractor or group contract holder does not renew, cancels, or otherwise terminates the group contract, the health care service contractor shall offer a conversion contract to any person who was covered under the terminated contract unless the person is eligible to obtain group hospital or medical expense coverage within thirty-one days after such non-renewal, cancellation, or termination of the group contract.

(5) The health care service contractor shall determine the premium for the conversion contract in accordance with the contractor's table of premium rates applicable to the age and class of risk of each person to be covered under the contract and the type and amount of benefits provided. [1984 c 190 § 6.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

48.44.380 Conversion contract—Restrictions and requirements. (1) A health care service contractor shall not require proof of insurability as a condition for issuance of the conversion contract.

(2) A conversion contract may not contain an exclusion for preexisting conditions except to the extent that a waiting period for a preexisting condition has not been satisfied under the group contract.

(3) A health care service contractor must offer at least three contract benefit plans that comply with the following:

(a) A major medical plan with a five thousand dollar deductible and a lifetime benefit maximum of two hundred fifty thousand dollars per person;

(b) A comprehensive medical plan with a five hundred dollar deductible and a lifetime benefit maximum of five hundred thousand dollars per person; and

(c) A basic medical plan with a one thousand dollar deductible and a lifetime maximum of seventy-five thousand dollars per person.

(4) The insurance commissioner may revise the deductibles and lifetime benefit amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion contracts.

(6) The commissioner shall adopt rules to establish specific standards for conversion contract provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions; and
- (d) Definitions of terms. [1984 c 190 § 7.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

Chapter 48.46

HEALTH MAINTENANCE ORGANIZATIONS

Sections

48.46.065	Repealed.
48.46.250	Coverage of dependent children—Newborn infants, congenital anomalies—Notification period.
48.46.440	Continuation option to be offered.
48.46.450	Conversion agreement to be offered—Exceptions, conditions.
48.46.460	Conversion agreement—Restrictions and requirements.

Health care assistants: Chapter 18.135 RCW.

48.46.065 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

48.46.250 Coverage of dependent children—Newborn infants, congenital anomalies—Notification period. (1) Any health maintenance agreement under this chapter which provides coverage for dependent children of the enrolled participant shall provide the same coverage for newborn infants of the enrolled participant from and after the moment of birth. Coverage provided under this section shall include, but not be limited to, coverage for congenital anomalies of such children from the moment of birth.

(2) If payment of an additional premium is required to provide coverage for a child, the agreement may require that notification of birth of a newly born child and payment of the required premiums must be furnished to the health maintenance organization. The notification period shall be no less than sixty days from the date of birth. This subsection applies to agreements issued or renewed on or after January 1, 1984. [1984 c 4 § 2; 1983 c 202 § 12.]

48.46.440 Continuation option to be offered. Every health maintenance organization that issues agreements providing group coverage for hospital or medical care shall offer the agreement holder an option to include an agreement provision granting a person who becomes ineligible for coverage under the group agreement, the right to continue the group benefits for a period of time and at a rate agreed upon. The agreement provision shall provide that when such coverage terminates the covered person may convert to an agreement as provided in RCW 48.46.450. [1984 c 190 § 8.]

Legislative intent—Application—Severability—1984 c 190: See notes following RCW 48.21.250.

48.46.450 Conversion agreement to be offered—Exceptions, conditions. (1) Except as otherwise provided by this section, any group health maintenance agreement entered into or renewed on or after January 1, 1985, that provides benefits for hospital or medical care shall contain a provision granting a person covered by the group agreement the right to obtain a conversion agreement from the health maintenance organization upon termination of the person's eligibility for coverage under the group agreement.

(2) A health maintenance organization need not offer a conversion agreement to:

(a) A person whose coverage under the group agreement ended when the person's employment or membership was terminated for misconduct: *Provided*, That when a person's employment or membership is terminated for misconduct, a conversion policy shall be offered to the spouse and/or dependents of the terminated employee or member. The policy shall include in the conversion provisions the same conversion rights and conditions which are available to employees or members and their spouses and/or dependents who are terminated for reasons other than misconduct;

(b) A person who is eligible for federal Medicare coverage; or

(c) A person who is covered under another group plan, policy, contract, or agreement providing benefits for hospital or medical care.

(3) To obtain the conversion agreement, a person must submit a written application and the first premium payment for the conversion agreement not later than thirty-one days after the date the person's eligibility for group coverage terminates. The conversion agreement shall become effective without lapse of coverage, immediately following termination of coverage under the group agreement.

(4) If a health maintenance organization or group agreement holder does not renew, cancels, or otherwise terminates the group agreement, the health maintenance organization shall offer a conversion agreement to any person who was covered under the terminated agreement unless the person is eligible to obtain group benefits for hospital or medical care within thirty-one days after such nonrenewal, cancellation, or termination of the group agreement.

(5) The health maintenance organization shall determine the premium for the conversion agreement in accordance with the organization's table of premium rates applicable to the age and class of risk of each person to be covered under the agreement and the type and amount of benefits provided. [1984 c 190 § 9.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

48.46.460 Conversion agreement—Restrictions and requirements. (1) A health maintenance organization must offer a conversion agreement for comprehensive health care services and shall not require proof of insurability as a condition for issuance of the conversion agreement.

(2) A conversion agreement may not contain an exclusion for preexisting conditions except to the extent that a waiting period for a preexisting condition has not been satisfied under the group agreement.

(3) A conversion agreement need not provide benefits identical to those provided under the group agreement. The conversion agreement may contain provisions requiring the person covered by the conversion agreement to pay reasonable deductibles and copayments.

(4) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion agreements.

(5) The commissioner shall adopt rules to establish specific standards for conversion agreement provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions; and
- (d) Definitions of terms. [1984 c 190 § 10.]

Legislative intent—Severability—1984 c 190: See notes following RCW 48.21.250.

Title 49

LABOR REGULATIONS

Chapters

- 49.04** Apprenticeship.
- 49.38** Theatrical enterprises.
- 49.46** Minimum wage act.
- 49.60** Law against discrimination.
- 49.70** Worker and community right to know act.

Chapter 49.04

APPRENTICESHIP

Sections

- 49.04.010 Apprenticeship council created—Composition—Terms—Compensation—Duties. (Effective July 1, 1985.)

49.04.010 Apprenticeship council created—Composition—Terms—Compensation—Duties. (Effective July 1, 1985.) The director of labor and industries shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations, respectively. The terms of office of the members of the apprenticeship council first appointed by the director of labor and industries shall be as follows: One representative each of employers and employees shall be appointed for one year, two years, and three years, respectively. Thereafter, each member shall be appointed for a term of three years. The governor shall appoint a public member to the apprenticeship council for a three-year term. The appointment of the public member is subject to confirmation by the senate. Each member shall hold office until his successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of the term. The state official who has been designated by the commission for vocational education as being in charge of trade and industrial education and the state official who has immediate charge of the state public employment service shall ex officio be members of said council, without vote. Each member of the council, not otherwise compensated by public moneys, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated in accordance with RCW

43.03.240. The apprenticeship council with the consent of employee and employer groups shall: (1) Establish standards for apprenticeship agreements in conformity with the provisions of this chapter; (2) issue such rules and regulations as may be necessary to carry out the intent and purposes of this chapter, including a procedure to resolve an impasse should a tie vote of the council occur; and (3) perform such other duties as are hereinafter imposed. Not less than once a year the apprenticeship council shall make a report to the director of labor and industries of its activities and findings which shall be available to the public. [1984 c 287 § 97; 1982 1st ex.s. c 39 § 2; 1979 ex.s. c 37 § 1; 1977 c 75 § 72; 1975-'76 2nd ex.s. c 34 § 143; 1967 c 6 § 1; 1961 c 114 § 1; 1941 c 231 § 1; Rem. Supp. 1941 § 7614-3. Formerly RCW 49.04.010 and 49.04.020.]

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.

Vocational education: Chapter 28C.04 RCW.

Chapter 49.38 THEATRICAL ENTERPRISES

Sections

49.38.010	Definitions.
49.38.020	Payment of wages—Cash deposit or bond required.
49.38.030	Action to require cash deposit or bond.
49.38.040	Payment of wages—Action against cash deposit or bond—Limitations.
49.38.050	Recovery of attorney's fees and costs.
49.38.060	Penalty.
49.38.070	Department to adopt rules.
49.38.900	Severability—1984 c 89.

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

(1) Department means the department of labor and industries.

(2) Theatrical enterprise means the production of any circus, vaudeville, carnival, revue, variety show, musical comedy, operetta, opera, drama, endurance contest, marathon, walkathon, or any other entertainment event where persons are a part of the enterprise's presentation. Theatrical enterprise does not include a program of a radio or television station operating pursuant to a license issued by the federal communications commission or any event produced by a nonprofit cultural or artistic organization that has been located in a community for at least two years. [1984 c 89 § 1.]

49.38.020 Payment of wages—Cash deposit or bond required. (1) Any person engaged in the business of promoting a theatrical enterprise in this state shall deposit with the department the cash or a bond issued by a surety company authorized to do business in this state in an amount determined sufficient by the department to pay the wages of every person involved in the production

of the theatrical enterprise for the period for which a single payment of wages is made, but not to exceed one week.

(2) The deposit required under subsection (1) of this section shall be on file with the department seven calendar days before the commencement of the theatrical enterprise. [1984 c 89 § 2.]

49.38.030 Action to require cash deposit or bond. If a person engaged in the business of promoting a theatrical enterprise fails to deposit cash or the bond required under RCW 49.38.020, the department may bring an action in the superior court to compel such person to deposit the cash or bond or cease doing business until he or she has done so. [1984 c 89 § 3.]

49.38.040 Payment of wages—Action against cash deposit or bond—Limitations. Any person having a claim for wages against a person engaged in the business of promoting a theatrical enterprise may bring an action against the bond or cash deposit in the district or superior court of the county in which the theatrical enterprise is produced or any county in which the principal on the bond resides or conducts business. An action against the bond may be brought against the named surety without joining the principal named in the bond. The liability of the surety shall not exceed the amount named in the bond. Any action brought under this chapter shall be commenced within one year after the completion of the work for which wages are alleged to be due and owing under this chapter. If a cash deposit has been made in lieu of a surety bond and if judgment is entered against the depositor and deposit, then the department shall upon receipt of a certified copy of a final judgment within one year of the date of entry of such judgment pay the judgment from the deposit. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit. [1984 c 89 § 4.]

49.38.050 Recovery of attorney's fees and costs. In an action brought pursuant to RCW 49.38.040, the prevailing party is entitled to reasonable attorney's fees and costs. [1984 c 89 § 5.]

49.38.060 Penalty. Any person who violates this chapter is guilty of a gross misdemeanor. [1984 c 89 § 6.]

49.38.070 Department to adopt rules. The department may adopt rules under chapter 34.04 RCW to carry out the provisions of this chapter. [1984 c 89 § 7.]

49.38.900 Severability—1984 c 89. 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 89 § 8.]

Chapter 49.46
MINIMUM WAGE ACT

Sections

49.46.010 Definitions.

49.46.010 Definitions. As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by regulations of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; and the exclusions from the term "employee" provided in this item shall not be deemed applicable with respect to commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(b) Any individual employed in domestic service in or about a private home;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman as those terms are defined and delimited by regulations of the director. However, those terms shall be defined and delimited by the state personnel board pursuant to chapter 41.06 RCW and the higher education personnel board pursuant to chapter 28B.16 RCW for employees employed under their respective jurisdictions;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives

reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he reside or sleep at the place of his employment or who otherwise spends a substantial portion of his work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel.

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed. [1984 c 7 § 364; 1977 ex.s. c 69 § 1; 1975 1st ex.s. c 289 § 1; 1974 ex.s. c 107 § 1; 1961 ex.s. c 18 § 2; 1959 c 294 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 49.60

LAW AGAINST DISCRIMINATION

Sections

49.60.030

Freedom from discrimination—Declaration of civil rights.

- 49.60.070 Compensation and reimbursement for travel expenses of board members. (Effective July 1, 1985.)
 49.60.178 Unfair practices with respect to insurance transactions.

49.60.030 Freedom from discrimination—Declaration of civil rights. (1) The right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination: *Provided*, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph; and

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, national origin or lawful business relationship: *Provided however*, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices.

(2) Any person deeming himself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover the actual damages sustained by him, or both, together with the cost of suit including a reasonable attorney's fees or any other remedy authorized by this chapter or the United States Civil Rights Act of 1964; and

(3) Notwithstanding any other provisions of this chapter, any act prohibited by this chapter related to sex discrimination or discriminatory boycotts or blacklists which is committed in the course of trade or commerce in the state of Washington as defined in the Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair practice within the meaning of RCW 19.86.020 and 19.86.030 and subject to all the provisions of chapter 19.86 RCW as now or hereafter amended. [1984 c 32 § 2; 1979 c 127 § 2; 1977 ex.s. c 192 § 1; 1974 ex.s. c 32 § 1; 1973 1st ex.s. c 214 § 3; 1973 c 141 § 3; 1969

ex.s. c 167 § 2; 1957 c 37 § 3; 1949 c 183 § 2; Rem. Supp. 1949 § 7614-21.]

Severability—1969 ex.s. c 167: See note following RCW 49.60.010.

Severability—1957 c 37: See note following RCW 49.60.010.

Severability—1949 c 183: See note following RCW 49.60.010.

49.60.070 Compensation and reimbursement for travel expenses of board members. (Effective July 1, 1985.) Each member of the board shall be compensated in accordance with RCW 43.03.250 and, while in session or on official business, shall receive reimbursement for travel expenses incurred during such time in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 98; 1975-'76 2nd ex.s. c 34 § 145; 1955 c 270 § 4. Prior: 1949 c 183 § 4, part; Rem. Supp. 1949 § 7614-23, part.]

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.

49.60.178 Unfair practices with respect to insurance transactions. It is an unfair practice for any person whether acting for himself or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap: *Provided*, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section. [1984 c 32 § 1; 1979 c 127 § 6; 1974 ex.s. c 32 § 2; 1973 c 141 § 6.]

Chapter 49.70

WORKER AND COMMUNITY RIGHT TO KNOW ACT

Sections

- 49.70.010 Legislative findings.
 49.70.100 Employee may request workplace survey or material safety data sheet—Employee's right to refuse to work.
 49.70.110 Discharge or discipline of employee prohibited—Application of discrimination statutes.

- 49.70.120 Right-to-know advisory council—Members—Procedures—Officers and staff—Reimbursement of expenses.
- 49.70.130 Right-to-know advisory council—Powers and duties.
- 49.70.140 Educational brochures and public service announcements.
- 49.70.150 Civil actions authorized.
- 49.70.160 Requests for additional information—Confidentiality.
- 49.70.170 Worker and community right to know fund—Employer assessments—Audits—Appeal of assessment.
- 49.70.180 Application of enforcement and administrative procedures of Washington industrial safety and health act.
- 49.70.190 Compliance with chapter—Notice—Fines—Injunctive relief.
- 49.70.200 Adoption of rules.
- 49.70.900 Short title.
- 49.70.905 Severability—1984 c 289.

workplace survey or a material safety data sheet, filed pursuant to this chapter for the employee's work area. The employer shall supply this material within three working days of the request. If an employer has not complied with *section 12 of this act, an employee shall have the right to refuse to work with a particular hazardous substance for which a request was made and not honored within the statutory time period without loss of pay or forfeit of any other privilege until the request is honored. This section shall not apply to employees of vessels while the employees are on the water. [1984 c 289 § 15.]

*Reviser's note: Section 12, chapter 289, Laws of 1984 was vetoed by the governor.

49.70.010 Legislative findings. The legislature finds and declares that the proliferation of hazardous substances in the environment poses a growing threat to the public health, safety, and welfare; that the constantly increasing number and variety of hazardous substances, and the many routes of exposure to them make it difficult and expensive to monitor adequately and detect any adverse health effects attributable thereto; that individuals themselves are often able to detect and thus minimize effects of exposure to hazardous substances if they are aware of the identity of the substances and the early symptoms of unsafe exposure; and that individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

The legislature further declares that local health, fire, police, safety, and other government officials require detailed information about the identity, characteristics, and quantities of hazardous substances used and stored in communities within their jurisdictions, in order to plan adequately for, and respond to, emergencies, enforce compliance with applicable laws and regulations concerning these substances, and to compile records of exposures to hazardous substances over a period of time that will facilitate the diagnosis, treatment, and prevention of disease.

The legislature further declares that the extent of the toxic contamination of the air, water, and land in this state has caused a high degree of concern among its residents and that much of this concern is needlessly aggravated by the unfamiliarity of these substances to residents.

The legislature therefore determines that while these substances have contributed to the high quality of life we enjoy in our state, it is in the public interest to establish a comprehensive program for the disclosure of information about hazardous substances in the workplace and the community, and to provide a procedure whereby residents of this state may gain access to this information. [1984 c 289 § 2.]

49.70.100 Employee may request workplace survey or material safety data sheet—Employee's right to refuse to work. An employee or employee representative may request, in writing, from the employer, a copy of a

49.70.110 Discharge or discipline of employee prohibited—Application of discrimination statutes. No employer may discharge, cause to be discharged, or otherwise discipline, penalize, or discriminate against any employee because the employee or the employee's representative has exercised any right established in this chapter. The discrimination provisions of chapter 49.17 RCW apply to this chapter. [1984 c 289 § 16.]

49.70.120 Right-to-know advisory council—Members—Procedures—Officers and staff—Reimbursement of expenses. (1) The director shall establish in the department a right-to-know advisory council, which shall consist of fifteen members appointed by the director. Each of these members shall be appointed for a term of three years, provided that of the members of the council first appointed by the director, five shall serve for terms of one year, five shall serve for terms of two years, and five shall serve for terms of three years. Of these members, one shall be appointed from persons having training and experience in industrial hygiene recommended by recognized labor unions; one from persons recommended by recognized agricultural organizations; one from persons recommended by recognized environmental organizations; one from persons recommended by recognized public interest organizations; one from persons recommended by recognized organizations of chemical industries; one from persons recommended by recognized community organizations; one from persons recommended by recognized organizations of petroleum industries; one from persons recommended by recognized organizations of fire fighters; one from persons recommended by recognized business or trade organizations; one from persons recommended by recognized organizations of small business; one from persons holding an M.D. degree recommended by recognized public health organizations; two persons from professional accident and safety organizations; one person from the technology-based industries; and one from persons with training and experience in environmental epidemiology and toxicology recommended by recognized research or academic organizations. In the event that no recommendations for a particular category of membership are made to the director three months after June 7, 1984, in the case of the initial appointments, or within sixty days of the date of the expiration of the term of

office of any member or the occurrence of any vacancy in the case of subsequent appointments, the director shall appoint as a member for that category of membership a person whom the director believes will be representative thereof.

(2) A majority of the membership of the council constitutes a quorum for the transaction of council business. Action may be taken and motions and resolutions adopted by the council at any meeting thereof by the affirmative vote of a majority of the members of the council present and voting.

(3) The council shall meet regularly as it may determine, and shall also meet at the call of the department.

(4) The council shall appoint a chairman and other officers as may be necessary from among its members. The council may, within the limits of any funds appropriated or otherwise made available to it for this purpose, appoint such staff or hire such experts as it may require.

(5) Members of the council shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available to it for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060. [1984 c 289 § 17.]

49.70.130 Right-to-know advisory council—Powers and duties. (1) The council shall:

(a) Advise the department on the revision of the workplace hazardous substance lists;

(b) Study the impact of this chapter on employers and make recommendations to the legislature. Special emphasis shall be given to the study of the impacts on agricultural and small business employers;

(c) Prepare an updated fiscal note of the costs of this chapter to the department and to local governments, school districts, institutions of higher education and hospitals;

(d) Report to the legislature its findings under (b) and (c) of this section by January 1, 1985;

(e) Advise the department on the implementation of this chapter; and

(f) Review any matters submitted to it by the department.

(2) The council may:

(a) Review any aspect of the implementation of this chapter, and transmit its recommendations to the department; and

(b) Hold public meetings or hearings within the state on any matter or matters related to this chapter. [1984 c 289 § 18.]

49.70.140 Educational brochures and public service announcements. The department shall produce educational brochures and public service announcements detailing information available to citizens under this chapter. These educational materials shall be sent to each county health department. As necessary, the department shall provide information needed to update these educational materials. [1984 c 289 § 20.]

49.70.150 Civil actions authorized. A person may bring a civil action on his or her own behalf against a manufacturer, supplier, employer, or user to compel compliance with the provisions of this chapter or any rule promulgated under this chapter subject to the provisions of Title 51 RCW. The superior court shall have jurisdiction over these actions. The court may award costs of litigation to the prevailing party, including reasonable attorney and expert witness fees. [1984 c 289 § 21.]

49.70.160 Requests for additional information—Confidentiality. The department may request from an employer submitting surveys to it further information concerning the surveys, and the employer shall provide the additional information upon the request. The employer may require the department to provide reasons why further information is needed and to sign an agreement protecting the confidentiality of any additional information provided under this section. [1984 c 289 § 23.]

49.70.170 Worker and community right to know fund—Employer assessments—Audits—Appeal of assessment. (1) The worker and community right to know fund is hereby established in the custody of the state treasurer. The department shall deposit all moneys received under this chapter in the fund. Moneys in the fund may be spent only for the purposes of this chapter following legislative appropriation. Disbursements from the fund shall be on authorization of the director or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW.

(2) The department shall after July 1, 1985, assess each employer a fee of seventy-five cents per employee to provide for the implementation of the provisions of this chapter. After this initial assessment, the fees shall be based on a fee schedule developed by the department and shall be collected only from those employers who have hazardous substances present at their workplaces. All fees collected by the department pursuant to this section shall be collected in a cost-efficient manner and shall be deposited in the fund.

(3) Records required by this chapter shall at all times be open to the inspection of the director, or his designee including, the traveling auditors, agents or assistants of the department provided for in RCW 51.16.070 and 51.48.040. The information obtained from employer records under the provisions of this section shall be subject to the same confidentiality requirements as set forth in RCW 51.16.070.

(4) An employer may appeal the assessment of the fee pursuant to the procedures set forth in chapter 49.17 RCW and accompanying rules except that the employer shall not have the right of appeal to superior court as provided in chapter 49.17 RCW. The employer from whom the fee is demanded or enforced, may however, within thirty days of the board of industrial insurance appeal's final order, pay the fee under written protest setting forth all the grounds upon which such fee is claimed to be unlawful, excessive or otherwise improper

and thereafter bring an action in superior court against the department to recover such fee or any portion of the fee which was paid under protest.

(5) Repayment shall be made to the general fund of any moneys appropriated by law in order to implement this chapter. [1984 c 289 § 24.]

49.70.180 Application of enforcement and administrative procedures of Washington industrial safety and health act. Unless reference is specifically made to another chapter, this chapter shall be implemented and enforced including penalties, violations, citations, and other administrative procedures pursuant to chapter 49.17 RCW. [1984 c 289 § 25.]

49.70.190 Compliance with chapter—Notice—Fines—Injunctive relief. If a manufacturer, supplier, employer, or user refuses or fails to provide the department with any data sheets, workplace surveys, or other papers, documents, or information required by this chapter, the department may give written notice to the manufacturer, supplier, employer, or user demanding immediate compliance. If the manufacturer, supplier, employer, or user fails to begin to comply with the terms of the notice within fourteen days of receipt, the department may levy a fine of up to fifty dollars per affected employee per day, not to exceed five thousand dollars per day from the final date for compliance allowed by this section or by the department. In any case where the noncompliance continues for more than fifteen days or where the department determines the failure to comply creates a potential health or safety hazard to employees or hinders the department's performance of its duties under this chapter, the department may, in lieu of levying a fine or further fines, petition the superior court of Thurston county or the county where the manufacturer, supplier, employer, or user is located for an order enjoining the manufacturer, employer, supplier, or user from further noncompliance and granting any other remedies that may be appropriate. The court may award the department costs of litigation, including attorney's fees, if the department is the prevailing party. [1984 c 289 § 26.]

49.70.200 Adoption of rules. Except as otherwise provided in this chapter, the department, after consultation with the department of agriculture, shall adopt any rules necessary to carry out its responsibilities under this chapter. [1984 c 289 § 27.]

49.70.900 Short title. This chapter shall be known and may be cited as the "worker and community right to know act." [1984 c 289 § 1.]

49.70.905 Severability—1984 c 289. 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 289 § 30.]

Title 50

UNEMPLOYMENT COMPENSATION

Chapters

50.04	Definitions.
50.06	Temporary total disability.
50.20	Benefits and claims.
50.24	Contributions by employers.
50.29	Employer experience rating.
50.44	Special coverage provisions.

Chapter 50.04

DEFINITIONS

Sections

50.04.075	Dislocated worker.
50.04.310	Unemployed individual—Individual deemed not "unemployed."
50.04.320	Wages, remuneration.

50.04.075 Dislocated worker. "Dislocated worker" means any individual who:

- (1) Has been terminated or received a notice of termination from employment;
- (2) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and
- (3) Is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry. [1984 c 181 § 1.]

Dislocated worker's eligibility for benefits: RCW 50.20.043.

50.04.310 Unemployed individual—Individual deemed not "unemployed." (1) An individual shall be deemed to be "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(2) An individual shall be deemed not to be "unemployed" during any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer. [1984 c 134 § 1; 1973 2nd ex.s. c 7 § 1; 1945 c 35 § 32; Rem. Supp. 1945 § 9998-170. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1939 c 162 § 19.]

Application—1973 2nd ex.s. c 7: "This act shall apply to weeks of unemployment commencing on or after January 6, 1974." [1973 2nd ex.s. c 7 § 4.]

50.04.320 Wages, remuneration. For the purpose of payment of contributions, "wages" means the remuneration paid by one employer during any calendar year to an individual in its employment under this title or the unemployment compensation law of any other state in the amount specified in RCW 50.24.010. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the operating assets of another employer (hereinafter referred to as a predecessor employer) or assets used in a separate unit of a trade or business of a predecessor employer, and immediately after the acquisition employs in the individual's trade or business an individual who immediately before the acquisition was employed in the trade or business of the predecessor employer, then, for the purposes of determining the amount of remuneration paid by the successor employer to the individual during the calendar year which is subject to contributions, any remuneration paid to the individual by the predecessor employer during that calendar year and before the acquisition shall be considered as having been paid by the successor employer.

For the purpose of payment of benefits, "wages" means the remuneration paid by one or more employers to an individual for employment under this title during his base year: *Provided*, That at the request of a claimant, wages may be calculated on the basis of remuneration payable. The department shall notify each claimant that wages are calculated on the basis of remuneration paid, but at the claimant's request a redetermination may be performed and based on remuneration payable.

"Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the commissioner. Remuneration does not include payments to members of a reserve component of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, shall be considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

The provisions of this section pertaining to the assignment of previously accrued compensation shall not apply to individuals subject to RCW 50.44.050. [1984 c 134 § 2; 1983 1st ex.s. c 23 § 6; 1983 c 67 § 1; 1970 ex.s. c 2 § 3; 1953 ex.s. c 8 § 2; 1951 c 265 § 3; 1949 c 214 § 4;

1947 c 215 § 6; 1945 c 35 § 33; Rem. Supp. 1949 § 9998-171. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Conflict with federal requirements—**Effective dates**—**Construction**—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Severability—1951 c 265: See note following RCW 50.98.070.

Chapter 50.06

TEMPORARY TOTAL DISABILITY

Sections

50.06.010	Purpose.
50.06.020	Allowable beneficiaries.
50.06.030	Application for initial determination of disability— Special base year—Special individual benefit year.
50.06.900	Application of chapter—Recipients of industrial insurance or crime victims compensation.

50.06.010 Purpose. This chapter is enacted for the purpose of providing the protection of the unemployment compensation system to persons who have suffered a temporary total disability compensable under industrial insurance or crime victims compensation laws and is a recognition by this legislature of the economic hardship confronting those persons who have not been promptly reemployed after a prolonged period of temporary total disability. [1984 c 65 § 1; 1975 1st ex.s. c 228 § 7.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.020 Allowable beneficiaries. Only individuals who have suffered a temporary total disability and have received compensation under the industrial insurance or crime victims compensation laws of this state, any other state or the United States for a period of not less than thirteen consecutive calendar weeks by reason of such temporary total disability shall be allowed the benefits of this chapter. [1984 c 65 § 2; 1975 1st ex.s. c 228 § 8.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.030 Application for initial determination of disability—Special base year—Special individual benefit year. An application for initial determination made pursuant to this chapter, to be considered timely, must be filed in writing with the employment security department within twenty-six weeks following the week in which the period of temporary total disability commenced. Notice from the department of labor and industries shall satisfy this requirement. The records of the agency supervising the award of compensation shall be conclusive evidence of the fact of temporary disability and the beginning date of such disability. The employment security department shall process and issue an initial determination of entitlement or nonentitlement as the case may be.

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 immediately

prior to the first day of the calendar week in which the individual's temporary total disability commenced, and a special individual benefit year is established consisting of the entire period of disability and a fifty-two consecutive week period commencing with the first day of the calendar week immediately following the week or part thereof with respect to which the individual received his final temporary total disability compensation under the applicable industrial insurance or crime victims compensation laws except that no special benefit year shall have a duration in excess of three hundred twelve calendar weeks: *Provided however*, That 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 disability and filing requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year provided by this chapter, notwithstanding the provisions in RCW 50.04.030 relating to the establishment of a subsequent benefit year and RCW 50.40.010 relating to waiver of rights, may elect to establish a special benefit year under this chapter: *Provided further*, that the unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish such special benefit year. [1984 c 65 § 3; 1975 1st ex.s. c 228 § 9.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

50.06.900 Application of chapter—Recipients of industrial insurance or crime victims compensation. (1) This chapter shall be available to individuals who suffer a temporary total disability, compensable by an industrial insurance program, after *the effective date of this chapter.

(2) This chapter shall also be available to individuals who suffer a temporary total disability compensable under crime victims compensation laws, after June 7, 1984. [1984 c 65 § 4; 1975 1st ex.s. c 228 § 12.]

***Effective date**—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Chapter 50.20 BENEFITS AND CLAIMS

Sections

50.20.015	Benefit eligibility requirements for persons with marginal labor force attachment. (Effective July 1, 1985.)
50.20.043	Training provision.
50.20.044	Ineligibility for benefits for failure to attend job search workshop or training course.
50.20.120	Amount of benefits.

50.20.015 Benefit eligibility requirements for persons with marginal labor force attachment. (Effective July 1, 1985.) (1) If the product of an otherwise eligible individual's weekly benefit amount multiplied by thirteen is greater than the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, that individual shall be considered to

have marginal labor force attachment. However, the individual shall not be considered to have marginal labor force attachment if he or she had no wages or reduced wages in either of such two corresponding calendar quarters because of illness or disability or because such individual's first wages in covered employment were earned after the fifth completed calendar quarter of the individual's determination period. For the purposes of this subsection and RCW 50.29.020, "determination period" means the first eight of the last nine completed calendar quarters immediately preceding the individual's current benefit year.

(2) In addition to any other requirements established under this chapter which are not inconsistent with (a) through (f) of this subsection, if a determination is made under subsection (1) of this section that an individual has marginal labor force attachment, the following provisions shall apply to benefits payable to such individuals under this chapter:

(a) Payment of benefits under this chapter shall not be made to any individual for any week of unemployment:

(i) During which he or she fails to accept any offer of suitable work, as defined in subsection (2)(c) of this section, or fails to apply for any suitable work to which he or she was referred by the department; or

(ii) During which he or she fails to actively engage in seeking work.

(b) If any individual is ineligible for benefits for any week by reason of a failure described in subsection (2)(a)(i) or (2)(a)(ii) of this section, the individual shall be ineligible to receive benefits for any week which begins during a period which:

(i) Begins with the week following the week in which such failure occurs; and

(ii) Does not end until such individual has obtained bona fide work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks.

(c) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110.

(d) Benefits shall not be denied under subsection (2)(a)(i) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(i) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of:

(A) The individual's weekly benefit amount, as determined under RCW 50.20.120, for his or her benefit year; plus

(B) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;

(ii) The position was not offered to such individual in writing and was not listed with the department;

(iii) Such failure would not result in a denial of benefits under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (2)(c) and (2)(e) of this section; or

(iv) The position pays wages less than the higher of:

(A) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(B) Any applicable state or local minimum wage.

(e) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(i) The individual has engaged in a systematic and sustained effort to obtain work during such week, which has included at least five employer contacts: *Provided*, That if the department determines that economic conditions within a designated labor market area make it unlikely that individuals will be able to fulfill the requirement of five employer contacts per week, then the department shall designate an appropriate number of required contacts for individuals within such labor market area: *Provided further*, That if the department makes such a determination, then it shall report the determination, the newly-established number of employer contacts required within the designated labor market area, and supporting documentation for these actions, to the governor and the respective chairpersons of the house committee on labor and the senate committee on commerce and labor;

(ii) The individual provides tangible evidence to the department that he or she has engaged in such an effort during such week. Such evidence shall include information supplied by the individual on forms developed by the department which also provide for employer signature to verify work search contacts and comments regarding the individual's preparedness for immediate work.

(f) The department shall refer applicants to any suitable work to which subsections (2)(d)(i) through (2)(d)(iv) of this section would not apply. To the extent possible, the department shall provide each applicant with five referrals each week. A referral shall serve as one of the employer contacts required in subsection (2)(e)(i) of this section.

(3) This section shall not apply to an individual who earned wages in covered employment in at least eighty hours in each calendar quarter of the individual's base period. [1984 c 205 § 9.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

50.20.043 Training provision. No otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the commissioner, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the commissioner by reason of the application of RCW 50.20.010(3) relating to availability for work and active search for work, or

RCW 50.20.080 relating to failure to apply for, or refusal to accept suitable work.

An individual who the commissioner determines to be a dislocated worker as defined by RCW 50.04.075 is eligible for benefits with respect to any week in which the individual is satisfactorily progressing in a training program approved by the commissioner. [1984 c 181 § 2; 1971 c 3 § 12.]

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

Job skills program participation deemed to be training: RCW 28C.04.480.

50.20.044 Ineligibility for benefits for failure to attend job search workshop or training course. If an otherwise eligible individual fails without good cause, as determined by the commissioner under rules prescribed by the commissioner, to attend a job search workshop or a training or retraining course when directed by the department and such workshop or course is available at public expense, such individual shall not be eligible for benefits with respect to any week in which such failure occurred. [1984 c 205 § 8.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

50.20.120 Amount of benefits. (1) Subject to the other provisions of this title, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount (determined hereinafter) or one-third of the individual's base year wages under this title: *Provided*, That as to any week beginning on and after March 31, 1981, which falls in an extended benefit period as defined in RCW 50.22.010(1), as now or hereafter amended, an individual's eligibility for maximum benefits in excess of twenty-six times his or her weekly benefit amount will be subject to the terms and conditions set forth in RCW 50.22.020, as now or hereafter amended.

(2) An individual's weekly benefit amount shall be an amount equal to one twenty-fifth of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest. The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th. The maximum amount payable weekly shall be fifty-five percent of the "average weekly wage" for the calendar year preceding such June 30th: *Provided*, That if as of the first December 31st on which the ratio of the balance in the unemployment compensation fund to total remuneration paid by all employers subject to contributions during the calendar year ending on such December 31st and reported to the department by the following March 31st is 0.024 or more, the maximum amount payable weekly for benefit years beginning with the first full calendar week in July next following, and thereafter, shall be sixty percent of the "average weekly wage". The computation for this ratio shall be carried to the fourth

decimal place with the remaining fraction, if any, disregarded: *Provided further*, That for benefit years beginning before July 7, 1985, the maximum amount payable weekly shall not exceed one hundred eighty-five dollars. The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th. If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar. [1984 c 205 § 1; 1983 1st ex.s. c 23 § 11; 1981 c 35 § 5; 1980 c 74 § 3; 1977 ex.s. c 33 § 7; 1970 ex.s. c 2 § 5; 1959 c 321 § 2; 1955 c 209 § 1; 1951 c 265 § 11; 1949 c 214 § 16; 1945 c 35 § 80; Rem. Supp. 1949 § 9998-218. Prior: 1943 c 127 § 1; 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

Conflict with federal requirements—1984 c 205: "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 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 which 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." [1984 c 205 § 11.]

Severability—1984 c 205: "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 205 § 12.]

Effective dates—1984 c 205: "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 [March 21, 1984], except as follows:

(1) Sections 6 and 13 of this act shall take effect on January 1, 1985;

(2) Section 7 of this act shall be effective for compensable weeks of unemployment beginning on or after January 6, 1985; and

(3) Section 9 of this act shall take effect on July 1, 1985." [1984 c 205 § 14.] For codification of sections in this act, see Codification Tables, this volume.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Construction—Effective dates—Severability—1981 c 35: See notes following RCW 50.22.030.

Severability—Effective dates—1980 c 74: See notes following RCW 50.04.323.

Effective dates—Construction—1977 ex.s. c 33: See notes following RCW 50.04.030.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

Severability—1951 c 265: See note following RCW 50.98.070.

Chapter 50.24

CONTRIBUTIONS BY EMPLOYERS

Sections

50.24.010 Payment of contributions—Amount of wages subject to tax—Wages paid by employers making payments in lieu of contributions not remuneration.

50.24.010 Payment of contributions—Amount of wages subject to tax—Wages paid by employers making payments in lieu of contributions not remuneration. Contributions shall accrue and become payable by each

employer (except employers as described in RCW 50.44.010 who have properly elected to make payments in lieu of contributions and those employers who are required to make payments in lieu of contributions) for each calendar year in which the employer is subject to this title at the rate established pursuant to chapter 50.29 RCW.

In each rate year, the amount of wages subject to tax for each individual shall be one hundred fifteen percent of the amount of wages subject to tax for the previous year rounded to the next lower one hundred dollars: *Provided*, That the amount of wages subject to tax in any rate year shall not exceed eighty percent of the "average annual wage for contributions purposes" for the second preceding calendar year rounded to the next lower one hundred dollars: *Provided further*, That the amount subject to tax shall be twelve thousand dollars for rate year 1984 and ten thousand dollars for rate year 1985.

In making computations under this section and RCW 50.29.010, wages paid based on services for employers making payments in lieu of contributions shall not be considered remuneration. Moneys paid from the fund, based on services performed for employers who make payments in lieu of contributions, which have not been reimbursed to the fund as of any June 30 shall be deemed an asset of the unemployment compensation fund, to the extent that such moneys exceed the amount of payments in lieu of contributions which the commissioner has previously determined to be uncollectible: *Provided, further*, That the amount attributable to employment with the state shall also include interest as provided for in RCW 50.44.020.

Contributions shall become due and be paid by each employer to the treasurer for the unemployment compensation fund in accordance with such regulations as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in employment of the employer. Any deduction in violation of the provisions of this section shall be unlawful.

In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. [1984 c 205 § 2; 1977 ex.s. c 33 § 9; 1971 c 3 § 13; 1970 ex.s. c 2 § 8; 1949 c 214 § 18; 1945 c 35 § 89; Rem. Supp. 1949 § 9998-227. Prior: 1943 c 127 § 5; 1941 c 253 § 5; 1939 c 214 § 5; 1937 c 162 § 7.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

Effective dates—Construction—1977 ex.s. c 33: See notes following RCW 50.04.030.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

Chapter 50.29

EMPLOYER EXPERIENCE RATING

Sections

50.29.010 Definitions.

50.29.020	Experience rating accounts. (Effective for compensable weeks of unemployment beginning on or after January 6, 1985.)
50.29.025	Contribution rates for rate year 1984 and thereafter.
50.29.027	Benefit ratios to be computed for rate year 1985 and thereafter.
59.29.060	Repealed. (Effective January 1, 1985.)
50.29.062	Contribution rates for predecessor and successor employers. (Effective January 1, 1985.)
50.29.065	Quarterly notice of benefits paid and benefits charged to base year employer's experience rating account.

50.29.010 Definitions. As used in this chapter:

"Computation date" means July 1st of any year;

"Cut-off date" means September 30th next following the computation date;

"Rate year" means the calendar year immediately following the computation date;

"Experience rating year" is the twelve-month period beginning with July 1st of one calendar year and ending on June 30th of the following calendar year;

"Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his employment;

"Acquire" means the right to occupy or use the operating assets formerly in the possession of a predecessor employer whether that acquisition be by purchase, lease, gift, or by any legal process;

"Qualified employer" means: (1) Any employer as of the computation date who had some employment in the twelve-month period immediately preceding April 1st of the first of the three consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such three years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions, interest, and penalties required under this title from that employer for the thirty-six month period immediately preceding the computation date have been paid by the cut-off date; or (2) Any employer as of the computation date who has not been subject to this title for a period of time sufficient to be classified as a qualified employer under the provision of subdivision (1) of this paragraph but who had some employment in the twelve-month period immediately preceding April 1st of the first of the two consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such two years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions, interest, and penalties required under this title from that employer for the twenty-four month period immediately preceding the computation date have been paid by the cut-off date: *Provided*, That for the purpose of this section, unpaid contributions, interest, or penalties of twenty-five dollars or less or unpaid contributions, interest, or penalties of one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date may be disregarded if showing is made to the satisfaction of the commissioner that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a

reduced contribution rate because of such delinquency would be inequitable. [1984 c 205 § 3; 1983 1st ex.s. c 23 § 17; 1973 1st ex.s. c 158 § 11; 1971 c 3 § 16; 1970 ex.s. c 2 § 10.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

Construction—Compliance with federal act—1971 c 3: See RCW 50.44.080.

Wages defined for contribution purposes: RCW 50.04.320.

50.29.020 Experience rating accounts. (Effective for compensable weeks of unemployment beginning on or after January 6, 1985.) (1) An experience rating account shall be established and maintained for each employer, except those employers whose employees are covered under chapter 50.44 RCW, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers whose employees are not covered under chapter 50.44 RCW, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

(d) Benefits paid which represent the state's share of benefits payable under chapter 50.22 RCW shall not be charged to the experience rating account of any contribution paying employer.

(e) Benefits paid to a claimant who requalifies for benefits under RCW 50.20.050 or 50.20.060 shall not be charged to the experience rating account of the contribution paying employer with whom the disqualifying separation took place.

(f) Benefits paid to an individual as the result of a determination by the commissioner that no stoppage of work exists, pursuant to RCW 50.20.090, shall not be charged to the experience rating account of any contribution paying employer.

(g) In the case of individuals identified under RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in

the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer. [1984 c 205 § 7; 1975 1st ex.s. c 228 § 6; 1970 ex.s. c 2 § 11.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective date—1970 ex.s. c 2: See note following RCW 50.04.020.

50.29.025 Contribution rates for rate year 1984 and thereafter. For the rate year 1984 and each rate year thereafter, the contribution rate for each employer shall be determined under this section.

(1) A fund balance ratio shall be determined by dividing the balance in the unemployment compensation fund as of the June 30th immediately preceding the rate year by the total remuneration paid by all employers subject to contributions during the second calendar year preceding the rate year and reported to the department by the following March 31st. The division shall be carried to the fourth decimal place with the remaining fraction, if any, disregarded. The fund balance ratio shall be expressed as a percentage.

(2) The interval of the fund balance ratio, expressed as a percentage, shall determine which tax schedule in subsection (5) of this section shall be in effect for assigning tax rates for the rate year: *Provided*, That a uniform tax rate of 3.3 percent shall be in effect for the rate year 1984. The intervals for determining the effective tax schedule shall be:

Interval of the Fund Balance Ratio Expressed as a Percentage	Effective Tax Schedule
3.40 and above	A
2.90 to 3.39	B
2.40 to 2.89	C
1.90 to 2.39	D
1.40 to 1.89	E
Less than 1.40	F

(3) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (a) Identification number; (b) benefit ratio; (c) taxable payrolls for the four calendar quarters immediately preceding the computation date and reported to the department by the cut-off date; (d) a cumulative total of taxable payrolls consisting of the employer's taxable payroll plus the taxable payrolls of all other employers preceding him or her in the array; and (e) the percentage equivalent of the cumulative total of taxable payrolls.

(4) Each employer in the array shall be assigned to one of twenty rate classes according to the percentage intervals of cumulative taxable payrolls set forth in subsection (5) of this section: *Provided*, That if an employer's taxable payroll falls within two or more rate classes, the employer and any other employer with the same

benefit ratio shall be assigned to the lowest rate class which includes any portion of the employer's taxable payroll.

(5) The contribution rate for each employer in the array shall be the rate specified in the following table for the rate class to which he or she has been assigned, as determined under subsection (4) of this section, within the tax schedule which is to be in effect during the rate year:

Percent of Cumulative Taxable Payrolls Rate		Schedule of Contribution Rates for Effective Tax Schedule						
From	To	Class	A	B	C	D	E	F
0.00	5.00	1	0.5	0.6	1.0	1.5	1.9	2.5
5.01	10.00	2	0.5	0.8	1.2	1.7	2.1	2.7
10.01	15.00	3	0.6	1.0	1.4	1.8	2.3	2.9
15.01	20.00	4	0.8	1.2	1.6	2.0	2.5	3.1
20.01	25.00	5	1.0	1.4	1.8	2.2	2.7	3.2
25.01	30.00	6	1.2	1.6	2.0	2.4	2.8	3.3
30.01	35.00	7	1.4	1.8	2.2	2.6	3.0	3.4
35.01	40.00	8	1.6	2.0	2.4	2.8	3.2	3.6
40.01	45.00	9	1.8	2.2	2.6	3.0	3.4	3.8
45.01	50.00	10	2.0	2.4	2.8	3.2	3.6	4.0
50.01	55.00	11	2.3	2.6	3.0	3.4	3.8	4.1
55.01	60.00	12	2.5	2.8	3.2	3.6	4.0	4.3
60.01	65.00	13	2.7	3.0	3.4	3.8	4.2	4.5
65.01	70.00	14	2.9	3.2	3.6	4.0	4.4	4.7
70.01	75.00	15	3.1	3.4	3.8	4.2	4.6	4.8
75.01	80.00	16	3.3	3.6	4.0	4.4	4.7	4.9
80.01	85.00	17	3.5	3.8	4.2	4.6	4.9	5.0
85.01	90.00	18	3.9	4.2	4.6	4.9	5.0	5.2
90.01	95.00	19	4.3	4.6	5.0	5.1	5.2	5.4
95.01	100.00	20	5.4	5.4	5.4	5.4	5.4	5.4

(6) The contribution rate for each employer not qualified to be in the array shall be a rate equal to the average industry tax rate as determined by the commissioner; however, the rate may not be less than one percent: *Provided*, That employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due shall be assigned the contribution rate of five and four-tenths percent. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, shall be in accordance with established classification practices found in the "Standard Industrial Classification Manual" issued by the federal office of management and budget to the third digit provided in the Standard Industrial Classification code. [1984 c 205 § 5.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

50.29.027 Benefit ratios to be computed for rate year 1985 and thereafter. For the rate year 1985 and each rate year thereafter, a benefit ratio shall be computed for each qualified employer by dividing the total amount of benefits charged to the account of the employer during the forty-eight consecutive months immediately preceding the computation date by the taxable payrolls of

the employer for the same forty-eight month period as reported to the department by the cut-off dates. The division shall be carried to the sixth decimal place with the remaining fraction, if any, disregarded. [1984 c 205 § 4.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

59.29.060 Repealed. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

50.29.062 Contribution rates for predecessor and successor employers. (Effective January 1, 1985.) Predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer at the time of the transfer, his or her contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs. From and after January 1 following the transfer, the successor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits including the experience of the acquired business or portion of a business from the date of transfer, as of the regular computation date for that rate year.

(2) If the successor is not an employer at the time of the transfer, he or she shall pay contributions at the rate assigned to the predecessor employer at the time of the transfer for the remainder for that rate year and continuing until such time as he or she qualifies for a different rate in his or her own right.

(3) If the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, his or her rate from the date the transfer occurred until the end of that rate year and until he or she qualifies in his or her own right for a new rate, shall be the highest rate applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition.

(4) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(5) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate for each rate year shall be based on his or her experience with payrolls and benefits as of the regular computation date for that rate year including the experience of the acquired business or portion of business up to the date of transfer: *Provided*, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until he or she satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010. [1984 c 205 § 6.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

50.29.065 Quarterly notice of benefits paid and benefits charged to base year employer's experience rating

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account. Within thirty days after the end of every calendar quarter, the commissioner shall notify each employer of the benefits received during that quarter by each claimant for whom he or she is the base year employer and the amount of those benefits charged to his or her experience rating account. [1984 c 205 § 10.]

Conflict with federal requirements—Severability—Effective dates—1984 c 205: See notes following RCW 50.20.120.

Chapter 50.44

SPECIAL COVERAGE PROVISIONS

Sections

50.44.050	Benefits payable, terms and conditions.
50.44.052	Definition of "reasonable assurance" as used in RCW 50.44.050—Nonapplicability of RCW 50.44.050 (2), (3), and (4).

50.44.050 Benefits payable, terms and conditions.

Except as otherwise provided in subsections (1) through (4) of this section, benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title.

(1) Benefits based on service in an instructional, research or principal administrative capacity for an educational institution shall not be paid to an individual for any week of unemployment which commences during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. Any employee of a common school district who is presumed to be reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

(2) Benefits shall not be paid based on services in any other capacity for an educational institution for any week of unemployment which commences during the period between two successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms: *Provided*, That if benefits are denied to any individual under this subsection and that individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(3) Benefits shall not be paid based on any services described in subsections (1) and (2) of this section for any week of unemployment which commences during an

established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) Benefits shall not be paid (as specified in subsections (1), (2), or (3) of this section) based on any services described in subsections (1) or (2) of this section to any individual who performed such services in an educational institution while in the employ of an educational service district which is established pursuant to chapter 28A.21 RCW and exists to provide services to local school districts. [1984 c 140 § 2; 1983 1st ex.s. c 23 § 23; 1981 c 35 § 12; 1980 c 74 § 2; 1977 ex.s. c 292 § 18; 1975 1st ex.s. c 288 § 17; 1973 c 73 § 10; 1971 c 3 § 22.]

Effective date—Applicability—1984 c 140: "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 [March 7, 1984]. This act shall apply to weeks of unemployment beginning on or after April 1, 1984." [1984 c 140 § 3.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Effective dates—Severability—1981 c 35: See notes following RCW 50.22.030.

Severability—Effective dates—1980 c 74: See notes following RCW 50.04.323.

Effective dates—1977 ex.s. c 292: See notes following RCW 50.04.116.

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

Effective dates—1973 c 73: See notes following RCW 50.04.030.

50.44.052 Definition of "reasonable assurance" as used in RCW 50.44.050—Nonapplicability of RCW 50.44.050 (2), (3), and (4). (1) The term "reasonable assurance," as used in RCW 50.44.050(1), means a written, verbal, or implied agreement that the employee will perform services in the same capacity during the ensuing academic year or term as in the first academic year or term. A person whose services in the first year or term were performed under a contract shall not be deemed to be performing services "in the same capacity" in the ensuing academic year or term unless those services are also to be performed under a contract.

(2) "Reasonable assurance," as used in RCW 50.44.050(2), means an individual contract or an individual written notice to the employee. The individual written notice to the employee from the employer must contain a statement that: (a) The notice will result in a denial of benefits; (b) there is a possibility of retroactive benefits if the individual is not offered an opportunity to perform services in the second academic year or term; and (c) to be eligible for retroactive benefits the individual must file a timely claim for benefits in each week for which retroactive benefits would be sought.

(3) Subsections (2), (3), and (4) of RCW 50.44.050, as they relate to services other than those in an instructional, research, or principal administrative capacity, shall not apply to an individual who has worked in a

noninstructional, nonresearch, and nonprincipal administrative capacity for an educational institution during the same period one year earlier and who is not working in the current period due to a lack of work. [1984 c 140 § 1.]

Effective date—Applicability—1984 c 140: See note following RCW 50.44.050.

Title 51 INDUSTRIAL INSURANCE

Chapters

- 51.12** Employments and occupations covered.
- 51.16** Assessment and collection of premiums—Payrolls and records.
- 51.24** Actions at law for injury or death.
- 51.28** Notice and report of accident—Application for compensation.

Chapter 51.12

EMPLOYMENTS AND OCCUPATIONS COVERED

Sections

- 51.12.045 Offenders performing community service.

51.12.045 Offenders performing community service. Offenders performing community services pursuant to court order or under RCW 13.40.080 may be deemed employees and/or workers under this title at the option of the county, city, or town under whose authorization the services are performed. Any premiums or assessments due under this title for community services work shall be the obligation of and be paid for by the county, city, or town in which the offender performed the community services. Coverage commences when a county, city, or town has given notice to the director that it wishes to cover offenders performing community services before the occurrence of an injury or contraction of an occupational disease. [1984 c 24 § 4; 1981 c 266 § 1.]

Counties, cities, and towns authorized to treat offenders as employees or workers under Title 51 RCW: RCW 35.21.209, 35A.21.220, 36.16.139.

Chapter 51.16

ASSESSMENT AND COLLECTION OF PREMIUMS—PAYROLLS AND RECORDS

Sections

- 51.16.120 Distribution of further accident cost.

51.16.120 Distribution of further accident cost. (1) Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and shall suffer a further disability from injury or occupational disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof or die when death was substantially accelerated by the

combined effects thereof, then the experience record of an employer insured with the state fund at the time of said further injury or disease shall be charged and a self-insured employer shall pay directly into the reserve fund only the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. The department shall pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment shall be made as required by such order.

(2) The department shall, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(3) To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ. [1984 c 63 § 1; 1980 c 14 § 7. Prior: 1977 ex.s. c 350 § 28; 1977 ex.s. c 323 § 13; 1972 ex.s. c 43 § 13; 1961 c 23 § 51.16.120; prior: 1959 c 308 § 16; 1945 c 219 § 1; 1943 c 16 § 1; Rem. Supp. 1945 § 7676-1a.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Chapter 51.24

ACTIONS AT LAW FOR INJURY OR DEATH

Sections

51.24.020	Action against employer for intentional injury.
51.24.030	Action against third person—Election by injured person or beneficiary authorized—"Injury" defined.
51.24.050	Action against third person—Assignment of cause of action to department or self-insurer—Disposition of award or settlement—Adjustment of experience rating.
51.24.060	Action against third person—Distribution of award or settlement recovered by injured worker or beneficiary—Lien—Adjustment of experience rating—Enforcement.
51.24.070	Action against third person—Requiring injured worker or beneficiary to exercise right of election—Procedures—Right of reelection.
51.24.090	Action against third person—Compromise or settlement less than benefits—Approval by department or self-insurer—Assignment of action.

51.24.110	Action against third person—Assignment to department—Appointment of special assistant attorneys general.
51.24.120	Department authorized to adopt rules.
51.24.902	Application—1984 c 218.

51.24.020 Action against employer for intentional injury. If injury results to a worker from the deliberate intention of his or her employer to produce such injury, the worker or beneficiary of the worker shall have the privilege to take under this title and also have cause of action against the employer as if this title had not been enacted, for any damages in excess of compensation and benefits paid or payable under this title. [1984 c 218 § 2; 1977 ex.s. c 350 § 31; 1973 1st ex.s. c 154 § 94; 1961 c 23 § 51.24.020. Prior: 1957 c 70 § 24; prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part; RRS § 7680, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

51.24.030 Action against third person—Election by injured person or beneficiary authorized—"Injury" defined. (1) If an injury to a worker for which benefits and compensation are provided under this title is due to the negligence or wrong of a third person not in the same employ, the injured worker or beneficiary may elect to seek damages from the third person.

(2) For the purposes of this chapter, "injury" shall include any physical or mental condition, disease, ailment or loss, including death, for which compensation and benefits are paid or payable under this title. [1984 c 218 § 3; 1977 ex.s. c 85 § 1.]

51.24.050 Action against third person—Assignment of cause of action to department or self-insurer—Disposition of award or settlement—Adjustment of experience rating. (1) An election not to proceed against the third person operates as an assignment of the cause of action to the department or self-insurer, which may prosecute or compromise the action in its discretion in the name of the injured worker, beneficiary or legal representative.

(2) If an injury to a worker results in the worker's death, the department or self-insurer to which the cause of action has been assigned may petition a court for the appointment of a special personal representative for the limited purpose of maintaining an action under this chapter and chapter 4.20 RCW.

(3) If a beneficiary is a minor child, an election not to proceed against a third person on such beneficiary's cause of action may be exercised by the beneficiary's legal custodian or guardian.

(4) Any recovery made by the department or self-insurer shall be distributed as follows:

(a) The department or self-insurer shall be paid the expenses incurred in making the recovery including reasonable costs of legal services;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the recovery made, which shall not be subject to subsection (5) of this section. *Provided*, That in the event of a compromise and

settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the compensation and benefits paid to or on behalf of the injured worker or beneficiary by the department and/or self-insurer; and

(d) The injured worker or beneficiary shall be paid any remaining balance.

(5) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(6) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against further compensation or benefits to which the injured worker or beneficiary may be entitled.

(7) When the cause of action has been assigned to the self-insurer and compensation and benefits have been paid and/or are payable from state funds for the same injury:

(a) The prosecution of such cause of action shall also be for the benefit of the department to the extent of compensation and benefits paid and payable from state funds;

(b) Any compromise or settlement of such cause of action which results in less than the entitlement under this title is void unless made with the written approval of the department;

(c) The department shall be reimbursed for compensation and benefits paid from state funds;

(d) The department shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the self-insurer in obtaining the award or settlement; and

(e) Any remaining balance under subsection (4)(d) of this section shall be applied, under subsection (5) of this section, to reduce the obligations of the department and self-insurer to pay further compensation and benefits in proportion to which the obligations of each bear to the remaining entitlement of the worker or beneficiary. [1984 c 218 § 4; 1983 c 211 § 1; 1977 ex.s. c 85 § 3.]

Applicability—1983 c 211: "Sections 1 and 2 of this act apply to all actions against third persons in which judgment or settlement of the underlying action has not taken place prior to July 24, 1983." [1983 c 211 § 3.] "Sections 1 and 2 of this act" consist of the 1983 amendments of RCW 51.24.050 and 51.24.060.

Severability—1983 c 211: "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 211 § 4.]

51.24.060 Action against third person—Distribution of award or settlement recovered by injured worker

or beneficiary—Lien—Adjustment of experience rating—Enforcement. (1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: *Provided*, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for compensation and benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid or payable under this title: *Provided*, That the department or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(ii) The sum representing the department's and/or self-insurer's proportionate share shall not be subject to subsection (1) (d) and (e) of this section.

(d) Any remaining balance shall be paid to the injured worker or beneficiary;

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In the case of an employer not qualifying as a self-insurer, the department shall make a retroactive adjustment to such employer's experience rating in which the third party claim has been included to reflect that portion of the award or settlement which is reimbursed for compensation and benefits paid and, if the claim is open at the time of recovery, applied against

further compensation and benefits to which the injured worker or beneficiary may be entitled.

(5) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(6) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(7) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(8) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's

deputy, or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 7.33 RCW to which the wage earner may be entitled. [1984 c 218 § 5; 1983 c 211 § 2; 1977 ex.s. c 85 § 4.]

Applicability—Severability—1983 c 211: See notes following RCW 51.24.050.

51.24.070 Action against third person—Requiring injured worker or beneficiary to exercise right of election—Procedures—Right of reelection. (1) The department or self-insurer may require the injured worker or beneficiary to exercise the right of election under this chapter by serving a written demand by registered mail, certified mail, or personal service on the worker or beneficiary.

(2) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department or self-insurer, the injured worker or beneficiary is deemed to have assigned the action to the department or self-insurer. The department or self-insurer shall allow the worker or beneficiary at least ninety days from the election to institute or settle the action. When a beneficiary is a minor child the demand shall be served upon the legal custodian or guardian of such beneficiary.

(3) If an action which has been filed is not diligently prosecuted, the department or self-insurer may petition the court in which the action is pending for an order assigning the cause of action to the department or self-insurer. Upon a sufficient showing of a lack of diligent prosecution the court in its discretion may issue the order.

(4) If the department or self-insurer has taken an assignment of the third party cause of action under subsection (2) of this section, the injured worker or beneficiary may, at the discretion of the department or self-insurer, exercise a right of reelection and assume

the cause of action subject to reimbursement of litigation expenses incurred by the department or self-insurer. [1984 c 218 § 6; 1977 ex.s. c 85 § 5.]

51.24.090 Action against third person—Compromise or settlement less than benefits—Approval by department or self-insurer—Assignment of action. (1) Any compromise or settlement of the third party cause of action by the injured worker or beneficiary which results in less than the entitlement under this title is void unless made with the written approval of the department or self-insurer: *Provided*, That for the purposes of this chapter, "entitlement" means benefits and compensation paid and payable.

(2) If a compromise or settlement is void because of subsection (1) of this section, the department or self-insurer may petition the court in which the action was filed for an order assigning the cause of action to the department or self-insurer. If an action has not been filed, the department or self-insurer may proceed as provided in chapter 7.24 RCW. [1984 c 218 § 7; 1977 ex.s. c 85 § 7.]

51.24.110 Action against third person—Assignment to department—Appointment of special assistant attorneys general. (1) Actions against third persons that are assigned by the claimant to the department, voluntarily or by operation of law in accordance with chapter 51.24 RCW, may be prosecuted by special assistant attorneys general.

(2) The attorney general shall select special assistant attorneys general from a list compiled by the department and the Washington state bar association. The attorney general, in conjunction with the department and the Washington state bar association, shall promulgate rules and regulations outlining the criteria and the procedure by which private attorneys may have their names placed on the list of attorneys available for appointment as special assistant attorneys general to litigate third party actions under subsection (1) of this section. [1984 c 218 § 1.]

51.24.120 Department authorized to adopt rules. The department may adopt, amend, and rescind under chapter 34.04 RCW such rules as may be necessary to the administration of this chapter. [1984 c 218 § 8.]

51.24.902 Application—1984 c 218. This act applies to all causes of action against third persons in which judgment or settlement of the underlying action has not taken place before June 7, 1984. [1984 c 218 § 9.]

Reviser's note: "This act" [1984 c 218] consists of the amendment of RCW 51.24.020, 51.24.030, 51.24.050, 51.24.060, 51.24.070, and 51.24.090 and the enactment of RCW 51.24.110, 51.24.120, and 51.24.902.

Chapter 51.28

NOTICE AND REPORT OF ACCIDENT—APPLICATION FOR COMPENSATION

Sections	
51.28.020	Worker's application for compensation—Physician to aid in.
51.28.050	Time limitation for filing application or enforcing claim for injury.
51.28.055	Time limitation for filing claim for occupational disease—Notice.

51.28.020 Worker's application for compensation—Physician to aid in. Where a worker is entitled to compensation under this title he or she shall file with the department or his or her self-insuring employer, as the case may be, his or her application for such, together with the certificate of the physician who attended him or her, and it shall be the duty of the physician to inform the injured worker of his or her rights under this title and to lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the worker. The department shall provide physicians with a manual which outlines the procedures to be followed in applications for compensation involving occupational diseases, and which describes claimants' rights and responsibilities related to occupational disease claims. If application for compensation is made to a self-insuring employer, he or she shall forthwith send a copy thereof to the department. [1984 c 159 § 3; 1977 ex.s. c 350 § 33; 1971 ex.s. c 289 § 38; 1961 c 23 § 51.28.020. Prior: 1927 c 310 § 6, part; 1921 c 182 § 7, part; 1911 c 74 § 12, part; RRS § 7686, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

51.28.050 Time limitation for filing application or enforcing claim for injury. No application shall be valid or claim thereunder enforceable unless filed within one year after the day upon which the injury occurred or the rights of dependents or beneficiaries accrued, except as provided in RCW 51.28.055. [1984 c 159 § 1; 1961 c 23 § 51.28.050. Prior: 1927 c 310 § 6, part; 1921 c 182 § 7, part; 1911 c 74 § 12, part; RRS § 7686, part.]

51.28.055 Time limitation for filing claim for occupational disease—Notice. Claims for occupational disease or infection to be valid and compensable must be filed within two years following the date the worker had written notice from a physician: (1) Of the existence of his or her occupational disease, and (2) that a claim for disability benefits may be filed. The notice shall also contain a statement that the worker has two years from the date of the notice to file a claim. The physician shall file the notice with the department. The department shall send a copy to the worker and to the self-insurer if the worker's employer is self-insured. However, a claim is valid if it is filed within two years from the date of death of the worker suffering from an occupational disease. [1984 c 159 § 2; 1977 ex.s. c 350 § 34; 1961 c 23 §

51.28.055. Prior: 1959 c 308 § 18; prior: 1957 c 70 § 16, part; 1951 c 236 § 1, part.]

Title 52

FIRE PROTECTION DISTRICTS

Chapters

- 52.02 Formation.
- 52.04 Annexation.
- 52.06 Merger.
- 52.08 Withdrawal.
- 52.10 Dissolution.
- 52.12 Powers—Burning permits.
- 52.14 Commissioners.
- 52.16 Finances.
- 52.20 Local improvement districts.
- 52.22 Special proceedings.
- 52.24 Mergers.
- 52.28 Burning permits.
- 52.30 Miscellaneous provisions.
- 52.32 Validation.
- 52.34 Validation procedure.
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Chapter 52.02 FORMATION

Sections

- 52.02.020 Districts authorized.
- 52.02.030 Petition.
- 52.02.040 Hearing.
- 52.02.050 Notice—Publication and posting.
- 52.02.060 Hearing—Inclusion and exclusion of land.
- 52.02.070 Action on petition—Resolution—Election—
Candidates for first commissioners.
- 52.02.080 Election.
- 52.02.090 Ballots.
- 52.02.100 Canvass of election returns.
- 52.02.110 Declaration of election results—Resolution.
- 52.02.120 Resolution to be filed with auditor and assessor.
- 52.02.130 If proposition fails to carry.
- 52.02.140 Appeal.
- 52.02.150 Organization conclusive.

52.02.020 Districts authorized. Fire protection districts for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property in areas outside of cities and towns, except where the cities and towns have been annexed into a fire protection district, are authorized to be established as provided in this title. [1984 c 230 § 1; 1979 ex.s. c 179 § 5; 1959 c 237 § 1; 1947 c 254 § 1; 1945 c 162 § 1; 1943 c 121 § 1; 1941 c 70 § 1; 1939 c 34 § 1; Rem. Supp. 5654–101. Formerly RCW 52.04.020.]

Construction—Severability—1939 c 34: "The provisions of this act and proceedings thereunder shall be liberally construed with a view to effect their objects. If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid or unconstitutional." [1939 c 34 § 51.]

Validating—Saving—1939 c 34: "Any petition heretofore drawn, signed and filed with the county auditor in compliance with the provisions of section 1 to section 6, inclusive, of the Laws of 1933, Extraordinary Session, shall be valid and the various steps required by this act for the creation of a fire-protection district may be continued, if the further steps to be taken are begun within ninety (90) days after the taking effect of this act [March 1, 1939], and it shall not be necessary to prepare, sign and file with the county auditor a new petition, and any district so created shall not be invalid by reason of the failure to draw, sign and file a new petition under the provisions of this act." [1939 c 34 § 49.]

52.02.030 Petition. (1) For the purpose of the formation of a fire protection district, a petition designating the boundaries of the proposed district, by metes and bounds, or by describing the lands to be included in the proposed district by United States townships, ranges and legal subdivisions, signed by not less than fifteen percent of the qualified registered electors who reside within the boundaries of the district, and setting forth the object for the creation of the district and alleging that the establishment of the district will be conducive to the public safety, welfare, and convenience, and will be a benefit to the property included in the district, shall be filed with the county auditor of the county in which the proposed district is located, accompanied by an obligation signed by two or more petitioners, agreeing to pay the cost of the publication of the notice required by this title. The organization of any fire protection district previously formed is hereby approved and confirmed as a legally organized fire protection district in the state of Washington.

(2) The county auditor shall, within thirty days from the date of filing the petition, examine the signatures and certify to the sufficiency or insufficiency of the signatures. For this purpose, the county auditor shall have access to all registration books or records in the possession of the county election officials. The books and records shall be prima facie evidence of the truth of the certificate. No person having signed the petition is allowed to withdraw his or her name after the filing of the petition with the county auditor. If the petition is found to contain a sufficient number of signatures of registered electors residing within the proposed district, the county auditor shall transmit the petition, together with the auditor's certificate of sufficiency, to the county legislative authority which shall by resolution accept the petition and fix a time for a public hearing. [1984 c 230 § 2; 1963 ex.s. c 13 § 1; 1947 c 254 § 2; 1939 c 34 § 2; Rem. Supp. 1947 § 5654–102. Prior: 1933 c 60 § 2. Formerly RCW 52.04.030.]

52.02.040 Hearing. The hearing on the petition shall be at the office of the county legislative authority and the hearing shall be held not less than twenty nor more than forty days from the date of receipt of the petition with the certificate of sufficiency from the county auditor. The hearing may be completed at the scheduled time or may be adjourned from time to time as may be necessary for a determination of the petition, but such adjournment or adjournments shall not extend the time for considering the petition more than sixty days from

the date of receipt of the petition by the county legislative authority. [1984 c 230 § 3; 1939 c 34 § 3; RRS § 5654-103. Prior: 1933 c 60 § 2. Formerly RCW 52.04.040.]

52.02.050 Notice—Publication and posting. A copy of the petition with the names of the petitioners omitted, together with a notice signed by the clerk of the county legislative authority stating the date, hour, and place where the hearing on the petition shall take place, shall be published for three consecutive weeks in the official paper of the county prior to the date set for the hearing. The clerk shall also post a copy of the petition with the names of the petitioners omitted, together with a copy of the notice attached, for not less than fifteen days prior to the date of the hearing in each of three public places within the boundaries of the proposed district, to be previously designated by the clerk and made a matter of record in the proceedings on the petition. [1984 c 230 § 4; 1939 c 34 § 4; RRS § 5654-104. Prior: 1933 c 60 § 2. Formerly RCW 52.04.050.]

52.02.060 Hearing—Inclusion and exclusion of land. At the time and place of the hearing on the petition or at any adjournment thereof, the county legislative authority shall consider the petition and shall receive evidence as it deems material in favor of or opposed to the formation of the district or to the inclusion or exclusion of any lands. No lands outside of the boundaries of the proposed district as described in the petition may be included within the district without a written petition describing the land, executed by all persons having an interest of record in the lands, and filed with the proceedings on the petition. No land within the boundaries described in the petition, except that land which the county legislative authority finds will receive no benefits from the proposed district, may be excluded from the district. [1984 c 230 § 5; 1947 c 254 § 3; 1939 c 34 § 5; Rem. Supp. 1947 § 5654-105. Prior: 1933 c 60 § 3. Formerly RCW 52.04.060.]

52.02.070 Action on petition—Resolution—Election—Candidates for first commissioners. The county legislative authority has the authority to consider the petition and, if it finds that the lands or any portion of the lands described in the petition, and any lands added thereto by petition of those interested, will be benefited and that the formation of the district will be conducive to the public safety, welfare, and convenience, it shall make a finding by resolution; otherwise it shall deny the petition. If the county legislative authority approves the petition, it shall designate the name and number of the district, fix the boundaries of the district, and direct that an election be held within the proposed district for the purpose of determining whether the district shall be organized under this title and for the purpose of the election of its first fire commissioners. The county legislative authority shall, prior to the calling of the election, name three resident electors of the proposed district as candidates for election as the first fire commissioners of the district. [1984 c 230 § 6; 1939 c 34 §

6; RRS § 5654-106. Prior: 1933 c 60 § 3. Formerly RCW 52.04.070.]

52.02.080 Election. The election on the formation of the district and of the commissioners shall be conducted by the election officials of the county in which the proposed district is located in accordance with the general election laws of the state. For the purpose of the election, county voting precincts may be combined or divided and redefined. The territory in the district shall be included in one or more election precincts as is convenient, and a polling place for each designated. The notice of the election shall state generally and briefly its purpose, shall give the boundaries of the proposed district, define the election precinct or precincts, designate the polling place for each, list the names of the candidates for the first fire commissioners of the district, and shall state the date of the election. [1984 c 230 § 7; 1939 c 34 § 7; RRS § 5654-107. Formerly RCW 52.04.080.]

Elections: Title 29 RCW.

52.02.090 Ballots. (1) The ballot for the election shall be in a form that is convenient but shall present the propositions substantially as follows:

----- (insert county name) ----- County Fire Protection
District No. ----- (insert number) -----
----- Yes -----
----- (insert county name) ----- County Fire Protection
District No. ----- (insert number) -----
----- No -----

(2) The ballot shall specify the names of the candidates nominated for election as the first fire commissioners. [1984 c 230 § 8; 1939 c 34 § 8; RRS § 5654-108. Prior: 1933 ex.s. c 60 § 3. Formerly RCW 52.04.090.]

52.02.100 Canvass of election returns. The results of the election shall be canvassed by the canvassing board of the county and shall be transmitted to the county legislative authority. [1984 c 230 § 9; 1939 c 34 § 9; RRS § 5654-109. Formerly RCW 52.04.100.]

52.02.110 Declaration of election results—Resolution. If three-fifths of all the votes cast at the election were cast for the proposition "----- County Fire Protection District No. ----- Yes," the county legislative authority shall by resolution declare the territory organized as a fire protection district under the name designated and shall declare the three candidates receiving the highest number of votes for fire commissioners the elected fire commissioners of the district. [1984 c 230 § 10; 1941 c 70 § 2; 1939 c 34 § 10; Rem. Supp. 1941 § 5654-110. Formerly RCW 52.04.110.]

52.02.120 Resolution to be filed with auditor and assessor. The clerk of the county legislative authority shall certify a copy of the resolution and file it with the county auditor and the county assessor. [1984 c 230 § 11; 1939 c 34 § 11; RRS § 5654-111. Formerly RCW 52.04.120.]

52.02.130 If proposition fails to carry. If the results of the election show that the proposition to organize the proposed fire protection district failed to receive three-fifths of the votes cast, the county legislative authority shall record this fact and the proposed district shall not be formed. [1984 c 230 § 12; 1947 c 254 § 4; 1939 c 34 § 12; Rem. Supp. 1947 § 5654–112. Formerly RCW 52.04.130.]

52.02.140 Appeal. Any person or entity having a substantial interest and feeling aggrieved by any finding, determination, or resolution of the county legislative authority in the proceedings for the organization of a fire protection district under this title, may appeal within five days after the action of the county legislative authority to the superior court of the county, in the same manner as provided by law for appeals from the orders and determinations of the county legislative authority. [1984 c 230 § 13; 1939 c 34 § 13; RRS § 5654–113. Formerly RCW 52.04.140.]

Appeal from board's action: RCW 36.32.330.

52.02.150 Organization conclusive. After the expiration of five days from the approval of the resolution of the county legislative authority declaring the district to be organized, and the filing of the certified copies of the resolution of the county legislative authority with the county auditor and the county assessor, the creation of the district is complete and its legal existence cannot thereafter be questioned by any person by reason of a defect in the proceedings for the organization of the district. [1984 c 230 § 14; 1939 c 34 § 14; RRS § 5654–114. Formerly RCW 52.04.150.]

Chapter 52.04

ANNEXATION

(Formerly: Formation, dissolution, and annexation)

Sections

52.04.011	Annexation of territory by election method—Procedure—Indebtedness—Election dispensed with, when.
52.04.020	Recodified as RCW 52.02.020.
52.04.021	Annexation by petition method—Alternative to election method.
52.04.030	Recodified as RCW 52.02.030.
52.04.031	Annexation by petition method—Petition—Signers—Content.
52.04.040	Recodified as RCW 52.02.040.
52.04.041	Annexation by petition method—Hearing—Notice.
52.04.050	Recodified as RCW 52.02.050.
52.04.051	Annexation by petition method—Resolution providing for annexation.
52.04.060	Recodified as RCW 52.02.060.
52.04.061	Annexation of contiguous city or town—Procedure.
52.04.070	Recodified as RCW 52.02.070.
52.04.071	Annexation of contiguous city or town—Election.
52.04.080	Recodified as RCW 52.02.080.
52.04.081	Annexation of contiguous city or town—Annual tax levies—Limitations.
52.04.090	Recodified as RCW 52.02.090.
52.04.100	Recodified as RCW 52.02.100.
52.04.101	Withdrawal by annexed city or town—Election.
52.04.110	Recodified as RCW 52.02.110.
52.04.120	Recodified as RCW 52.02.120.
52.04.130	Recodified as RCW 52.02.130.

52.04.140	Recodified as RCW 52.02.140.
52.04.150	Recodified as RCW 52.02.150.
52.04.155	Recodified as RCW 52.10.010.
52.04.160	Decodified.
52.04.170	Recodified as RCW 52.04.061.
52.04.180	Recodified as RCW 52.04.071.
52.04.190	Recodified as RCW 52.04.081.
52.04.200	Recodified as RCW 52.04.101.

52.04.011 Annexation of territory by election method—Procedure—Indebtedness—Election dispensed with, when. A territory contiguous to a fire protection district and not within the boundaries of a city, town, or other fire protection district may be annexed to the fire protection district for the purpose of obtaining fire suppression and prevention services and emergency medical services, by petition of fifteen percent of the qualified registered electors residing within the territory proposed to be annexed. The petition shall be filed with the fire commissioners of the fire protection district and if the fire commissioners concur in the petition they shall file the petition with the county auditor who shall within thirty days after the date of the filing of the petition examine the signatures on the petition and certify to the sufficiency or insufficiency of the signatures. After the county auditor has certified the sufficiency of the petition, the proceedings by the county legislative authority and the rights, powers, and duties of the county legislative authority, petitioners, and objectors, and the election and canvass of the election results shall be the same as in the original proceedings to form a fire protection district: *Provided*, That the county legislative authority has the authority and duty to determine on an equitable basis, the amount of any obligation which the territory to be annexed to the district shall assume to place the property owners of the existing district on a fair and equitable relationship with the property owners of the territory to be annexed as a result of the benefits of annexing to a district previously supported by the property owners of the existing district. This obligation may be paid to the district in yearly benefit charge installments to be fixed by the county legislative authority. This benefit charge shall be collected with the annual tax levies against the property in the annexed territory until fully paid. The amount of the obligation and the plan of payment established by the county legislative authority shall be described in general terms in the notice of election for annexation and such benefit charge shall be limited to an amount not to exceed a total of fifty cents per thousand dollars of assessed valuation: *Provided, however*, That the special election shall be held only within the boundaries of the territory proposed to be annexed to the fire protection district. On the entry of the order of the county legislative authority incorporating the territory into the existing fire protection district, the territory shall become subject to the indebtedness, bonded or otherwise, of the existing district. If the petition is signed by sixty percent of the qualified registered electors residing within the territory proposed to be annexed, and if the board of fire commissioners concur, an election in the territory and a hearing on the petition shall be dispensed with and the

county legislative authority shall enter its order incorporating the territory into the existing fire protection district. [1984 c 230 § 22; 1973 1st ex.s. c 195 § 49; 1965 ex.s. c 18 § 1; 1959 c 237 § 3; 1947 c 254 § 5; 1945 c 162 § 2; 1941 c 70 § 3; Rem. Supp. 1947 § 5654-116a. Formerly RCW 52.08.060.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

52.04.020 Recodified as RCW 52.02.020. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.021 Annexation by petition method—Alternative to election method. The method of annexation provided for in RCW 52.04.031, 52.04.041, and 52.04.051 shall be an alternate method to that specified in RCW 52.04.011. [1984 c 230 § 23; 1965 c 59 § 1. Formerly RCW 52.08.065.]

52.04.030 Recodified as RCW 52.02.030. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.031 Annexation by petition method—Petition—Signers—Content. A petition for annexation of an area contiguous to a fire district shall be in writing, addressed to and filed with the board of commissioners of the district to which annexation is desired. It must be signed by the owners, according to the records of the county auditor, of not less than sixty percent of the area of land included in the annexation petition, shall set forth a legal description of the property and shall be accompanied by a plat which outlines the boundaries of the property to be annexed. The petition shall state the financial obligation, if any, to be assumed by the area to be annexed. [1984 c 230 § 24; 1965 c 59 § 2. Formerly RCW 52.08.066.]

52.04.040 Recodified as RCW 52.02.040. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.041 Annexation by petition method—Hearing—Notice. If the petition for annexation filed with the board of commissioners complies with the requirements of law, the board may accept the petition, fix a date for public hearing, and publish notice of the hearing in a newspaper of general circulation in the area proposed to be annexed and also post the notice in three public places within the area proposed for annexation. The notice shall specify the time and place of the hearing and invite interested persons to attend. The expense of publication of the notice shall be paid by the district. [1984 c 230 § 25; 1965 c 59 § 3. Formerly RCW 52.08.067.]

52.04.050 Recodified as RCW 52.02.050. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.051 Annexation by petition method—Resolution providing for annexation. After the hearing, the board of commissioners shall determine by resolution whether the area shall be annexed. It may annex all or any portion of the proposed area but may not include in the annexation property not described in the petition. After adoption of the resolution a copy shall be filed with the county legislative authority. [1984 c 230 § 26; 1965 c 59 § 4. Formerly RCW 52.08.068.]

52.04.060 Recodified as RCW 52.02.060. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.061 Annexation of contiguous city or town—Procedure. A city or town lying contiguous to a fire protection district may be annexed to such district if at the time of the initiation of annexation the population of the city or town is 10,000 or less. The legislative authority of the city or town may initiate annexation by the adoption of an ordinance stating an intent to join the fire protection district and finding that the public interest will be served thereby. If the board of fire commissioners of the fire protection district shall concur in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town and the district are situated. [1979 ex.s. c 179 § 1. Formerly RCW 52.04.170.]

52.04.070 Recodified as RCW 52.02.070. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.071 Annexation of contiguous city or town—Election. The county legislative authority or authorities shall by resolution call a special election to be held in the city or town and in the fire protection district at the next date provided in RCW 29.13.010 but not less than forty-five days from the date of the declaration of the finding, and shall cause notice of the election to be given as provided for in RCW 29.27.080.

The election on the annexation of the city or town into the fire protection district shall be conducted by the auditor of the county or counties in which the city or town and the fire protection district are located in accordance with the general election laws of the state. The results thereof shall be canvassed by the canvassing board of the county or counties. No person is entitled to vote at the election unless he or she is a qualified elector in the city or town or unless he or she is a qualified elector within the boundaries of the fire protection district. The ballot proposition shall be in substantially the following form:

"Shall the city or town of _____ be annexed to and be a part of _____ fire protection district?"

YES _____

NO _____

If a majority of the persons voting on the proposition in the city or town and a majority of the persons voting on the proposition in the fire protection district vote in favor thereof, the city or town shall be annexed and shall

be a part of the fire protection district. [1984 c 230 § 16; 1979 ex.s. c 179 § 2. Formerly RCW 52.04.180.]

Elections: Title 29 RCW.

52.04.080 Recodified as RCW 52.02.080. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.081 Annexation of contiguous city or town—Annual tax levies—Limitations. The annual tax levies authorized by chapter 52.16 RCW shall be imposed throughout the fire protection district, including any city or town annexed thereto. Any city or town annexed to a fire protection district is entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by the fire protection district or by a library district under RCW 27.12.390 in the incorporated area: *Provided*, That the limitations upon regular property taxes imposed by chapter 84.55 RCW apply. [1984 c 230 § 17; 1979 ex.s. c 179 § 4. Formerly RCW 52.04.190.]

52.04.090 Recodified as RCW 52.02.090. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.100 Recodified as RCW 52.02.100. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.101 Withdrawal by annexed city or town—Election. The legislative body of such a city or town which has annexed to such a fire protection district, may, by resolution, present to the voters of such city or town a proposition to withdraw from said fire protection district at any general election held at least three years following the annexation to the fire protection district. If the voters approve such a proposition to withdraw from said fire protection district, the city or town shall have a vested right in the capital assets of the district proportionate to the taxes levied within the corporate boundaries of the city or town and utilized by the fire district to acquire such assets. [1979 ex.s. c 179 § 3. Formerly RCW 52.04.200.]

52.04.110 Recodified as RCW 52.02.110. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.120 Recodified as RCW 52.02.120. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.130 Recodified as RCW 52.02.130. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.140 Recodified as RCW 52.02.140. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.150 Recodified as RCW 52.02.150. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.155 Recodified as RCW 52.10.010. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.160 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.170 Recodified as RCW 52.04.061. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.180 Recodified as RCW 52.04.071. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.190 Recodified as RCW 52.04.081. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.04.200 Recodified as RCW 52.04.101. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.06 MERGER

Sections

52.06.010	Merger of districts authorized.
52.06.020	Petition—Contents.
52.06.030	Action on petition.
52.06.040	Duty of county auditor—Special election.
52.06.050	Vote required—Status after favorable vote.
52.06.060	Merger by petition.
52.06.070	Obligations of merged districts.
52.06.080	Delivery of property and funds.
52.06.085	Board membership upon merger of districts—Subsequent boards.
52.06.090	Merger of part of district with adjacent district.
52.06.100	Merger of part of district with adjacent district—When election unnecessary.

52.06.010 Merger of districts authorized. A fire protection district may merge with another adjacent fire protection district, on such terms and conditions as they agree upon, in the manner provided in this title. The district desiring to merge with another district shall be called the "merging district," and the district into which the merger is to be made shall be called the "merger district." [1984 c 230 § 57; 1947 c 254 § 12; Rem. Supp. 1947 § 5654–151a. Formerly RCW 52.24.010.]

52.06.020 Petition—Contents. To effect such a merger, a petition to merge shall be filed with the board of the merger district by the commissioners of the merging district. The commissioners of the merging district may sign and file the petition on their own initiative, and they shall file a petition when it is signed by fifteen percent of the qualified electors resident in the merging district and presented to the board of commissioners.

The petition shall state the reasons for the merger, state the terms and conditions under which the merger is proposed, and request the merger. [1984 c 230 § 58; 1947 c 254 § 13; Rem. Supp. 1947 § 5654–151b. Formerly RCW 52.24.020.]

52.06.030 Action on petition. The board of the merger district may, by resolution, reject or approve the petition as presented, or it may modify the terms and conditions of the proposed merger, and shall transmit the petition, together with a copy of its resolution to the merging district. If the petition is approved as presented or as modified, the board of the merging district shall send an elector–signed petition, if there is one, to the auditor of the county in which the merging district is situated, who shall within thirty days examine the signatures and certify to the sufficiency or insufficiency of the signatures, and for that purpose shall have access to all registration books and records. No signatures may be withdrawn from the petition after the filing. If there is no elector–signed petition, the merging district board shall adopt a resolution calling a special election in the merging district for the purpose of presenting the question of the merger to the electors. [1984 c 230 § 59; 1947 c 254 § 14; Rem. Supp. 1947 § 5654–151c. Formerly RCW 52.24.030.]

52.06.040 Duty of county auditor—Special election. If the auditor finds that the petition contains the signatures of a sufficient number of qualified electors, the auditor shall return it, together with a certificate of sufficiency, to the board of the merging district. The board shall then adopt a resolution, calling a special election in the merging district, for the purpose of presenting the question of the merger to the electors. [1984 c 230 § 60; 1947 c 254 § 15; Rem. Supp. 1947 § 5654–151d. Formerly RCW 52.24.040.]

Elections: Title 29 RCW.

52.06.050 Vote required—Status after favorable vote. The board of the merging district shall notify the board of the merger district of the results of the election. If three–fifths of the votes cast at the election favor the merger, the respective district boards shall adopt concurrent resolutions, declaring the districts merged, under the name of the merger district. Thereupon the districts are merged into one district, under the name of the merger district; the merging district is dissolved without further proceedings; and the boundaries of the merger district are thereby extended to include all the area of the merging district. Thereafter the legal existence cannot be questioned by any person by reason of any defect in the proceedings had for the merger. [1947 c 254 § 16; Rem. Supp. 1947 § 5654–151e. Formerly RCW 52.24.050.]

52.06.060 Merger by petition. If three–fifths of all the qualified electors in the merging district sign the petition to merge, no election on the question of the merger is necessary and the auditor shall return the petition, together with a certificate of sufficiency to the board of

the merging district. The boards of the respective districts shall then adopt resolutions declaring the districts merged in the same manner and to the same effect as if the merger had been authorized by an election. [1984 c 230 § 61; 1947 c 254 § 17; Rem. Supp. 1947 § 5654–151f. Formerly RCW 52.24.060.]

52.06.070 Obligations of merged districts. None of the obligations of the merged districts or of a local improvement district located in the merged districts may be affected by the merger and dissolution, and all land liable to be assessed to pay any of the indebtedness shall remain liable to the same extent as if the districts had not been merged and any assessments previously levied against the land shall remain unimpaired and shall be collected in the same manner as if the districts had not merged. The commissioners of the merged district shall have all the powers of the two districts to levy, assess, and cause to be collected all assessments against any land in both districts that may be necessary to pay for the indebtedness thereof, and until the assessments are collected and all indebtedness of the districts paid, separate funds shall be maintained for each district as were maintained before the merger: *Provided*, That the board of the merged district may, with the consent of the creditors of the districts merged, cancel any or all assessments previously levied, in accordance with the terms and conditions of the merger, so that the lands in the respective districts bear their fair and proportionate share of the indebtedness. [1984 c 230 § 62; 1947 c 254 § 18; Rem. Supp. 1947 § 5654–151g. Formerly RCW 52.24.070.]

52.06.080 Delivery of property and funds. The commissioners of the merging district shall, upon completion of the merger, transfer, convey, and deliver to the merged district all property and funds of the merging district, together with all interest in and right to collect any assessments previously levied. [1984 c 230 § 63; 1947 c 254 § 19; Rem. Supp. 1947 § 5654–151h. Formerly RCW 52.24.080.]

52.06.085 Board membership upon merger of districts—Subsequent boards. Whenever two or more fire protection districts merge, the board of fire commissioners of the merged fire protection district shall consist of all of the original fire commissioners. At the next three elections for fire commissioners the number of fire commissioners for the merged district shall be reduced as follows, notwithstanding the number of fire commissioners whose terms expire:

In the first election after the merger, only one position shall be filled, whether the new fire protection district be a three member district or a five member district pursuant to *RCW 52.12.015.

In each of the two subsequent elections, one position shall be filled if the new fire protection district is a three member district and two positions shall be filled if the new fire protection district is a five member district pursuant to *RCW 52.12.015.

Thereafter, the fire commissioners shall be elected in the same manner as prescribed for such fire protection districts of the state. [1977 ex.s. c 121 § 1; 1971 c 55 § 1. Formerly RCW 52.24.085.]

***Reviser's note:** RCW 52.12.015 was recodified as RCW 52.14.020 by 1984 c 230 § 89.

52.06.090 Merger of part of district with adjacent district. A part of one district may be transferred and merged with an adjacent district if the area can be better served by the merged district. To effect such a merger, a petition, signed by a majority of the commissioners of the merging district or signed by not less than fifteen percent of the qualified electors residing in the area to be merged, shall be filed with the commissioners of the merging district, if signed by electors, or with the commissioners of the merger district if signed by commissioners of the merging district. If the commissioners of the merging district approve the petition, the petition shall be presented to the commissioners of the merger district. If the commissioners of the merger district approve the petition, an election shall be called in the area to be merged.

In the event that either board of fire district commissioners does not approve the petition, the petition may then be presented to a county review board established for such purposes. If there is no county review board for such purposes then the petition shall be presented to the legislative body of the county in which the area to be merged is situated, which shall decide if the area can be better served by a merger. If there is an affirmative decision, an election shall be called in the area to be merged.

A majority of the votes cast is necessary to approve the transfer. [1984 c 230 § 64; 1965 ex.s. c 18 § 2; 1963 c 42 § 1; 1953 c 176 § 5. Formerly RCW 52.24.090.]

52.06.100 Merger of part of district with adjacent district—When election unnecessary. If three-fifths of the qualified electors in the area to be merged sign a petition to merge the districts, no election on the question of the merger is necessary, in which case the auditor shall return the petition, together with a certificate of sufficiency, to the board of the merger district. The board of the merger district shall then adopt a resolution declaring the portion of the district merged in the same manner and to the same effect as if the same had been authorized by an election. [1984 c 230 § 65; 1953 c 176 § 6. Formerly RCW 52.24.100.]

Chapter 52.08 WITHDRAWAL (Formerly: Powers)

Sections

52.08.010	Recodified as RCW 52.12.011.
52.08.011	Withdrawal authorized.
52.08.020	Recodified as RCW 52.12.021.
52.08.021	Withdrawal by incorporation of part of district.
52.08.025	City may not be included within district—Withdrawal of city.
52.08.030	Recodified as RCW 52.12.031.

52.08.035	City withdrawn to determine fire and emergency medical protection methods—Contracts—Joint operations—Sale, lease, etc., of property.
52.08.040	Recodified as RCW 52.12.041.
52.08.041	Taxes and assessments unaffected.
52.08.050	Recodified as RCW 52.12.051.
52.08.051	Commissioners residing in territory withdrawn—Vacancy created.
52.08.060	Recodified as RCW 52.04.011.
52.08.065	Recodified as RCW 52.04.021.
52.08.066	Recodified as RCW 52.04.031.
52.08.067	Recodified as RCW 52.04.041.
52.08.068	Recodified as RCW 52.04.051.
52.08.080	Recodified as RCW 52.12.061.
52.08.090	Recodified as RCW 52.12.071.

52.08.010 Recodified as RCW 52.12.011. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.011 Withdrawal authorized. Territory within a fire protection district may be withdrawn from the district in the same manner provided by law for withdrawal of territory from water districts, as provided by chapter 57.28 RCW. [1984 c 230 § 54; 1955 c 111 § 1. Formerly RCW 52.22.010.]

52.08.020 Recodified as RCW 52.12.021. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.021 Withdrawal by incorporation of part of district. The incorporation of any previously unincorporated land lying within a fire protection district shall operate to automatically withdraw such lands from the fire protection district. [1959 c 237 § 5; 1955 c 111 § 2. Formerly RCW 52.22.020.]

52.08.025 City may not be included within district—Withdrawal of city. Effective January 1, 1960, every city or town, or portion thereof, which is situated within the boundaries of a fire protection district shall become automatically removed from such fire protection district, and no fire protection district shall thereafter include any city or town, or portion thereof, within its boundaries except as provided for in *RCW 52.04.020, 52.04.170, 52.04.180, 52.04.190, and 52.04.200. [1979 ex.s. c 179 § 6; 1959 c 237 § 6. Formerly RCW 52.22.030.]

***Reviser's note:** RCW 52.04.020, 52.04.170, 52.04.180, 52.04.190, and 52.04.200 were recodified as RCW 52.02.020, 52.04.061, 52.04.071, 52.04.081, and 52.04.101, respectively, by 1984 c 230 § 89.

52.08.030 Recodified as RCW 52.12.031. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.035 City withdrawn to determine fire and emergency medical protection methods—Contracts—Joint operations—Sale, lease, etc., of property. A city or town encompassing territory withdrawn under chapter 52.08 RCW shall determine the most effective and feasible fire protection and emergency medical protection for the withdrawn territory, or any part thereof, and the legislative authority of the city or town

and the commissioners of the fire protection district may, without limitation of any other powers provided by law:

(1) Enter into contracts to the same extent as fire protection districts and cities and towns may enter into contracts under authority of RCW 52.12.031(3), and

(2) Sell, purchase, rent, lease, or exchange property of every nature. [1984 c 230 § 55; 1959 c 237 § 8. Formerly RCW 52.22.040.]

52.08.040 Recodified as RCW 52.12.041. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.041 Taxes and assessments unaffected. The provisions of RCW 57.28.110 shall apply to territory withdrawn from a fire protection district under the provision of *chapter 52.22 RCW. [1959 c 237 § 7. Formerly RCW 52.22.050.]

***Reviser's note:** The provisions of chapter 52.22 RCW governing withdrawal of territory were recodified by 1984 c 230 § 89 and now appear in chapter 52.08 RCW.

52.08.050 Recodified as RCW 52.12.051. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.051 Commissioners residing in territory withdrawn—Vacancy created. Fire protection district commissioners residing in territory withdrawn from a fire protection district shall be replaced in the manner provided for the filling of vacancies in RCW 52.14.050. [1984 c 230 § 56; 1959 c 237 § 9. Formerly RCW 52.22.060.]

52.08.060 Recodified as RCW 52.04.011. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.065 Recodified as RCW 52.04.021. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.066 Recodified as RCW 52.04.031. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.067 Recodified as RCW 52.04.041. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.068 Recodified as RCW 52.04.051. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.080 Recodified as RCW 52.12.061. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.08.090 Recodified as RCW 52.12.071. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.10 DISSOLUTION

Sections

52.10.010	Dissolution—Election method.
52.10.020	Disincorporation of district located in class A or AA county and inactive for five years.

52.10.010 Dissolution—Election method. Fire protection districts may be dissolved by a majority vote of the registered electors of the district at an election conducted by the election officials of the county in which the district is located in accordance with the general election laws of the state. The proceedings for dissolution may be initiated by the adoption of a resolution by the board of commissioners of the district calling for the dissolution. The dissolution of the district shall not cancel outstanding obligations of the district or of a local improvement district within the district, and the county legislative authority may make annual levies against the lands within the district until the obligations of the districts are paid. When the obligations are fully paid, all moneys in district funds and all collections of unpaid district taxes shall be transferred to the expense fund of the county. [1984 c 230 § 15; 1939 c 34 § 46; RRS § 5654–146. Formerly RCW 52.04.155.]

Dissolution of inactive special purpose districts: Chapter 36.96 RCW.

52.10.020 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

Chapter 52.12 POWERS—BURNING PERMITS (Formerly: Commissioners)

Sections

52.12.010	Recodified as RCW 52.14.010.
52.12.011	Status.
52.12.015	Recodified as RCW 52.14.020.
52.12.020	Recodified as RCW 52.14.025.
52.12.021	General powers.
52.12.030	Recodified as RCW 52.14.030.
52.12.031	Specific powers—Acquisition or lease of property or equipment—Contracts—Association of districts—Group life insurance—Building inspections—Fire investigations.
52.12.040	Recodified as RCW 52.14.040.
52.12.041	Eminent domain.
52.12.050	Recodified as RCW 52.14.050.
52.12.051	Condemnation proceedings.
52.12.060	Recodified as RCW 52.14.060.
52.12.061	Contracts, promissory notes, deeds of trust, and mortgages for purchase of property—Limit on indebtedness—Election, when.
52.12.070	Recodified as RCW 52.14.070.
52.12.071	Liability insurance for officials and employees.
52.12.080	Recodified as RCW 52.14.080.
52.12.090	Recodified as RCW 52.14.090.
52.12.100	Recodified as RCW 52.14.100.
52.12.101	Burning permits authorized—Resolution.
52.12.102	Burning permits—Resolution to be published and posted.
52.12.103	Burning permits—Issuance—Contents.
52.12.104	Burning permits—Duties of permittee.
52.12.105	Burning permits—Penalty.
52.12.106	Burning permits—Penalty.

52.12.108	Burning permits—Liability for fire suppression costs.
52.12.110	Repealed.
52.12.111	Use of equipment and personnel beyond district boundaries—Governmental function.
52.12.121	Use of equipment and personnel outside district—Duty of fire fighter deemed duty for district—Benefits not impaired.
52.12.131	Emergency medical services—Establishment and collection of charges.

52.12.010 Recodified as RCW 52.14.010. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.011 Status. Fire protection districts created under this title are political subdivisions of the state and shall be held to be municipal corporations within the laws and Constitution of the state of Washington. A fire protection district shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by law. [1984 c 230 § 18; 1967 c 164 § 5; 1939 c 34 § 15; RRS § 5654–115. Formerly RCW 52.08.010.]

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

52.12.015 Recodified as RCW 52.14.020. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.020 Recodified as RCW 52.14.025. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.021 General powers. Fire protection districts have full authority to carry out their purposes and to that end may acquire, purchase, hold, lease, manage, occupy, and sell real and personal property, or any interest therein, to enter into and to perform any and all necessary contracts, to appoint and employ the necessary officers, agents, and employees, to sue and be sued, to exercise the right of eminent domain, to levy and enforce the collection of assessments and special taxes in the manner and subject to the limitations provided in this title against the lands within the district for district revenues, and to do any and all lawful acts required and expedient to carry out the purpose of this title. [1984 c 230 § 19; 1939 c 34 § 16; RRS § 5654–116. Formerly RCW 52.08.020.]

52.12.030 Recodified as RCW 52.14.030. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.031 Specific powers—Acquisition or lease of property or equipment—Contracts—Association of districts—Group life insurance—Building inspections—Fire investigations. Any fire protection district organized under this title may:

(1) Lease, acquire, own, maintain, operate, and provide fire and emergency medical apparatus and all other necessary or proper facilities, machinery, and equipment for the prevention and suppression of fires, the providing of emergency medical services and the protection of life and property;

(2) Lease, acquire, own, maintain, and operate real property, improvements, and fixtures for housing, repairing, and maintaining the apparatus, facilities, machinery, and equipment described in subsection (1) of this section;

(3) Contract with any governmental entity or private person or entity to consolidate or cooperate for fire prevention protection, fire suppression, and emergency medical purposes. In so contracting, the district or governmental entity is deemed for all purposes to be acting within its governmental capacity. This contracting authority includes the furnishing of fire prevention, fire suppression, emergency medical services, facilities, and equipment to or by the district, governmental entity, or private person or entity;

(4) Encourage uniformity and coordination of fire protection district operations. The fire commissioners of fire protection districts may form an association to secure information of value in suppressing and preventing fires and other district purposes, to hold and attend meetings, and to promote more economical and efficient operation of the associated fire protection districts. The commissioners of fire protection districts in the association shall adopt articles of association or articles of incorporation for a nonprofit corporation, select a chairman, secretary, and other officers as they may determine, and may employ and discharge agents and employees as the officers deem convenient to carry out the purposes of the association. The expenses of the association may be paid from funds paid into the association by fire protection districts: *Provided*, That the aggregate contributions made to the association by a district in a calendar year shall not exceed two and one-half cents per thousand dollars of assessed valuation;

(5) Enter into contracts to provide group life insurance for the benefit of the personnel of the fire districts;

(6) Perform building and property inspections that the district deems necessary to provide fire prevention services and pre-fire planning within the district and any area that the district serves by contract in accordance with RCW 19.27.110: *Provided*, That codes used by the district for building and property inspections shall be limited to the applicable codes adopted by the state, county, city, or town that has jurisdiction over the area in which the property is located. A copy of inspection reports prepared by the district shall be furnished by the district to the appropriate state, county, city, or town that has jurisdiction over the area in which the property is located: *Provided*, That nothing in this subsection shall be construed to grant code enforcement authority to a district. This subsection shall not be construed as imposing liability on any governmental jurisdiction;

(7) Determine the origin and cause of fires occurring within the district and any area the district serves by contract. In exercising the authority conferred by this

subsection, the fire protection district and its authorized representatives shall comply with the provisions of RCW 48.48.060;

(8) Perform acts consistent with this title and not otherwise prohibited by law. [1984 c 238 § 1; 1973 1st ex.s. c 195 § 48; 1963 c 101 § 1; 1959 c 237 § 2; 1947 c 254 § 6; 1941 c 70 § 4; 1939 c 34 § 20; Rem. Supp. 1947 § 5654–120. Formerly RCW 52.08.030.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.
Use of city fire apparatus beyond city limits: RCW 35.84.040.

52.12.040 Recodified as RCW 52.14.040. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.041 Eminent domain. The taking and damaging of property or property rights by a fire protection district to carry out the purposes of its organization are declared to be for a public use. A district organized under this title may exercise the power of eminent domain to acquire property or property rights either inside or outside the district, for the use of the district. A district exercising the power of eminent domain shall proceed in the name of the district in the manner provided by law for the appropriation of real property or of real property rights by private corporations. [1984 c 230 § 20; 1939 c 34 § 18; RRS § 5654–118. Formerly RCW 52.08.040.]

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9); chapter 8.20 RCW.

52.12.050 Recodified as RCW 52.14.050. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.051 Condemnation proceedings. A fire protection district may unite in a single action, proceedings to condemn property which is held by separate owners. Two or more condemnation suits instituted separately may also, in the discretion of the court, upon a motion of an interested party, be consolidated into a single action. In these cases, the jury shall render separate verdicts for each tract of land in different ownership. A finding of the jury or decree of the court as to damages shall not in any manner be construed to abridge or destroy the right of the district to levy and collect taxes for district purposes against the uncondemned land situated within the district. The title acquired by a fire protection district in condemnation proceedings shall be the fee simple title or a lesser estate as designated in the decree of appropriation. [1984 c 230 § 21; 1939 c 34 § 19; RRS § 5654–119. Formerly RCW 52.08.050.]

52.12.060 Recodified as RCW 52.14.060. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.061 Contracts, promissory notes, deeds of trust, and mortgages for purchase of property—Limit on indebtedness—Election, when. Fire protection districts may execute executory conditional sales contracts,

installment promissory notes secured by a deed of trust, or mortgages with a governmental entity or a private party for the purchase or sale of any real or personal property, or property rights: *Provided*, That the purchase price specified in a contract or promissory note to purchase property does not result in a total indebtedness in excess of three-eighths of one percent of the value of the taxable property in the fire protection district: *Provided further*, That if a proposed purchase contract or promissory note would result in a total indebtedness in excess of that amount, a proposition to determine whether that contract or promissory note may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters: *And provided further*, That a fire protection district may jointly execute contracts, promissory notes, deeds of trust, or mortgages authorized by this section with any governmental entity.

The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015. [1984 c 230 § 27; 1970 ex.s. c 42 § 29; 1965 c 21 § 1. Formerly RCW 52.08.080.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

52.12.070 Recodified as RCW 52.14.070. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.071 Liability insurance for officials and employees. The board of commissioners of each fire district may purchase liability insurance with limits it deems reasonable for the purpose of protecting its officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1984 c 230 § 28; 1973 c 125 § 3. Formerly RCW 52.08.090.]

52.12.080 Recodified as RCW 52.14.080. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.090 Recodified as RCW 52.14.090. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.100 Recodified as RCW 52.14.100. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.101 Burning permits authorized—Resolution. In any district in which the commissioners have adopted and published a resolution assuming the authority of issuing burning permits, a person, firm, or corporation shall not start, permit, or cause to be started or permitted an open fire on any land within a fire protection district, without a written permit issued by the district under terms and conditions as the district establishes by resolution. A fire district shall not assume authority to issue a burning permit for a fire on any forest

or cut over land, except as otherwise provided by law. [1984 c 229 § 1; 1947 c 254 § 20; Rem. Supp. 1947 § 5654-151i. Formerly RCW 52.28.010.]

52.12.102 Burning permits—Resolution to be published and posted. The commissioners of a district may adopt a resolution authorizing the district to issue fire permits and establishing the terms and conditions under which the permit shall be issued. Notice of the resolution shall be published once a week for three consecutive weeks in a newspaper published in the county and of general circulation in the district and post it in three public places in the district. The affidavit of publication by the publisher and of the clerk of the district of the posting shall be filed in the records of the district. Ten days after the posting and the last publication, the resolution shall take effect. [1984 c 229 § 2; 1947 c 254 § 21; Rem. Supp. 1947 § 5654-151j. Formerly RCW 52.28.020.]

52.12.103 Burning permits—Issuance—Contents. Burning permits may be issued upon request, by the persons authorized by the commissioners when the issuing officer deems it appropriate. The permit shall designate the premises and the exact location where the fire may be started and permitted, the nature of the material to be burned, the time limit of the permit, and may contain any special requirements and conditions pertaining to the fire and the control of the fire as the issuing officer deems appropriate. [1984 c 229 § 3; 1947 c 254 § 22; Rem. Supp. 1947 § 5654-151k. Formerly RCW 52.28.030.]

52.12.104 Burning permits—Duties of permittee. The permittee shall comply with the terms and conditions of the permit, and shall maintain a responsible person in charge of the fire at all times who shall maintain the fire under control, not permit it to spread to other property or structures, and extinguish the fire when the authorized burning is completed or when directed by district personnel. The possession of a permit shall not relieve the permittee from liability for damages resulting from the fire for which the permittee may otherwise be liable. [1984 c 229 § 4; 1947 c 254 § 23; Rem. Supp. 1947 § 5654-151l. Formerly RCW 52.28.040.]

Crimes relating to fires: Chapter 9A.48 RCW, RCW 76.04.220.

Liability for fire damage: RCW 4.24.040, 4.24.050, 4.24.060, 76.04.380, 76.04.390.

52.12.105 Burning permits—Penalty. The violation of or failure to comply with any provision of this chapter pertaining to fire permits, or of any term or condition of the permit, is a misdemeanor. [1947 c 254 § 24; Rem. Supp. 1947 § 5654-151m. Formerly RCW 52.28.050.]

52.12.106 Burning permits—Penalty. The violation of or failure to comply with any provision of this chapter pertaining to fire permits, or of any term or

condition of the permit, is a misdemeanor. [1984 c 229 § 5.]

52.12.108 Burning permits—Liability for fire suppression costs. If a person starts a fire without a permit or if a permit holder fails to comply with any provision of this chapter pertaining to fire permits, or of any term or condition of the permit, and as a result of that failure the district is required to suppress a fire, the person or permit holder is liable to the district to reimburse it for the costs of the fire suppression services. [1984 c 229 § 6.]

52.12.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.12.111 Use of equipment and personnel beyond district boundaries—Governmental function. A fire protection district may permit, under conditions prescribed by the fire commissioners of the district, the use of its equipment and personnel beyond the boundaries of the district. Any use made of the equipment or personnel under this section shall be deemed an exercise of a governmental function of the district. [1984 c 230 § 77; 1980 c 43 § 1; 1969 c 88 § 2. Formerly RCW 52.36.025.]

52.12.121 Use of equipment and personnel outside district—Duty of fire fighter deemed duty for district—Benefits not impaired. If a fire fighter engages in any duty outside the boundaries of the district the duty shall be considered as part of the duty as fire fighter for the district, and a fire fighter who is injured while engaged in duties outside the boundaries of the district shall be entitled to the same benefits that the fire fighter or the fire fighter's dependents would be entitled to receive if the injury occurred within the district. [1984 c 230 § 78; 1969 c 88 § 3. Formerly RCW 52.36.027.]

52.12.131 Emergency medical services—Establishment and collection of charges. Any fire protection district which provides emergency medical services, may by resolution establish and collect reasonable charges for these services in order to reimburse the district for its costs of providing emergency medical services. [1984 c 230 § 81; 1975 c 64 § 1. Formerly RCW 52.36.090.]

Chapter 52.14 COMMISSIONERS

Sections	
52.14.010	Number—Qualifications—Insurance—Compensation—Service as volunteer fireman—Waiver of compensation—Terms of first commissioners.
52.14.015	Increase from three to five commissioners—Election.
52.14.020	Number in district having full-time, fully-paid personnel—Terms of first appointees.
52.14.025	Terms—Elections.
52.14.030	Election precincts.
52.14.040	Statement of candidacy.
52.14.050	Vacancies—Procedure for filling—Grounds for declaring office vacant.

- 52.14.060 Terms of first elected commissioners.
 52.14.070 Oath of office.
 52.14.080 Chairman—Secretary—Duties and oath.
 52.14.090 Office—Meetings.
 52.14.100 Meetings—Powers and duties of board.
 52.14.110 Purchases and public works—Competitive bids required—Exceptions.
 52.14.120 Purchases and public works—Competitive bidding procedures.

52.14.010 Number—Qualifications—Insurance—Compensation—Service as volunteer fireman—Waiver of compensation—Terms of first commissioners. The affairs of the district shall be managed by a board of fire commissioners composed of three resident electors of the district. The members shall each receive twenty-five dollars per day, not to exceed seventy-five dollars per month, for attendance at board meetings and for performance of other services in behalf of the district. In addition, they shall receive necessary expenses incurred in attending meetings of the board or when otherwise engaged in district business, and shall be entitled to receive the same insurance available to all firemen of the district: *Provided*, That the premiums for such insurance, except liability insurance, shall be paid by the individual commissioners who elect to receive it. In any district which has a fire department owning and operating motor-powered fire fighting equipment and employing personnel on a full time, fully paid basis, fire commissioners, in addition to expenses as aforesaid, shall each receive twenty-five dollars per day, not to exceed one hundred twenty-five dollars per month, for attendance at board meetings and for performance of other services on behalf of the district. Any commissioner may waive all or any portion of his compensation payable under this section as to any month or months during his term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which said compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The board shall fix the compensation to be paid the secretary and all other agents and employees of the district. The board may, by resolution adopted by unanimous vote, authorize any of its members to serve as volunteer firemen without compensation. A commissioner actually serving as a volunteer fireman may enjoy the rights and benefits of a volunteer fireman. The first commissioners shall take office immediately when qualified in accordance with RCW 29.01.135 and shall serve until after the next general election for the selection of commissioners and until their successors have been elected and have qualified and have assumed office in accordance with RCW 29.04.170. [1980 c 27 § 1; 1979 ex.s. c 126 § 31; 1973 c 86 § 1; 1971 ex.s. c 242 § 2; 1969 ex.s. c 67 § 1; 1967 c 51 § 1; 1965 c 112 § 1; 1959 c 237 § 4; 1957 c 238 § 1; 1945 c 162 § 3; 1939 c 34 § 22; Rem. Supp. 1945 § 5654-122. Formerly RCW 52.12.010.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Candidates for first commissioners: RCW 52.02.070.

Terms of first elected commissioners: RCW 52.14.060.

52.14.015 Increase from three to five commissioners—Election. In the event a three member board of commissioners of any fire protection district determines by resolution and approves by unanimous vote of the board that it would be in the best interest of the district to increase the number of commissioners from three to five, or in the event the board is presented with a petition signed by fifteen percent of the qualified electors resident within the district calling for such an increase in the number of commissioners of the district, the board shall submit a resolution to the legislative body of the county requesting that an election be held. Upon receipt of the resolution, the legislative authority of the county shall call a special election to be held within the fire protection district at which election the following proposition shall be submitted to the voters:

Shall the board of commissioners of _____ county fire protection district no. _____ be increased from three members to five members?

Yes _____

No _____

If the proposition receives a majority approval at the election, the board of commissioners of the fire protection district shall be increased to five members. The two additional members shall be appointed in the same manner as provided in RCW 52.14.020. [1984 c 230 § 85.]

52.14.020 Number in district having full-time, fully-paid personnel—Terms of first appointees. In a fire protection district maintaining a fire department consisting wholly of personnel employed on a full-time, fully-paid basis, there shall be five fire commissioners. The two positions created on boards of fire commissioners by this section shall be filled initially as for a vacancy, except that the appointees shall draw lots, one appointee to serve until the next general fire district election after the appointment, at which two commissioners shall be elected for six-year terms, and the other appointee to serve until the second general fire district election after the appointment, at which two commissioners shall be elected for six-year terms. [1984 c 230 § 29; 1971 ex.s. c 242 § 3. Formerly RCW 52.12.015.]

52.14.025 Terms—Elections. Except as otherwise provided, the term of fire commissioner is six years and shall begin in accordance with RCW 29.04.170. Fire protection district elections shall be held in odd-numbered years and shall be conducted by the election officials of the county in accordance with the general election laws of the state. [1984 c 230 § 30; 1979 ex.s. c 126 § 32; 1939 c 34 § 23; RRS § 5654-123. Formerly RCW 52.12.020.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).

Elections: Title 29 RCW.

52.14.030 Election precincts. The polling places for district elections shall be those of the county voting precincts which include any of the territory within the fire protection districts. District elections may be located

outside the boundaries of the district and shall not be held to be irregular or void on that account. [1984 c 230 § 31; 1939 c 34 § 24; RRS § 5654-124. Formerly RCW 52.12.030.]

52.14.040 Statement of candidacy. Not more than sixty nor less than forty-six days prior to the date of election, any resident elector of the district desiring to become a candidate for office of fire commissioner shall file with the county auditor of the county a statement of candidacy for which a fee shall not be charged. The resident electors so filing are entitled to have their names appear as candidates on the ballot for the election. [1984 c 230 § 32; 1972 ex.s. c 101 § 1; 1947 c 254 § 7; 1939 c 34 § 25; Rem. Supp. 1947 § 5654-125. Formerly RCW 52.12.040.]

52.14.050 Vacancies—Procedure for filling—Grounds for declaring office vacant. In the event of a vacancy occurring in the office of fire commissioner, the vacancy shall, within sixty days, be filled by appointment of a resident elector of the district by a vote of the remaining fire commissioners. The person appointed shall serve until a successor has been elected or appointed and has qualified. If the board of commissioners fails to fill the vacancy within the sixty-day period, the county legislative authority shall make the appointment. If the number of vacancies is such that there are not a majority of the full number of commissioners in office as fixed by law, the county legislative authority shall within thirty days of the vacancies appoint the required number to create a majority as prescribed by law to fill the vacancies ad interim through the next general election. At the next general election, if there is sufficient time for the nomination of candidates for office of fire commissioner, after the filling of any vacancy in the office, a fire commissioner shall be elected to serve for the remainder of the unexpired term.

If a fire commissioner is absent from the district for three consecutive regularly scheduled meetings unless by permission of the board, the office shall be declared vacant by the board of commissioners and the vacancy shall be filled as provided for in this section. However, such an action shall not be taken unless the commissioner is notified by mail after two consecutive unexcused absences that the position will be declared vacant if the commissioner is absent without being excused from the next regularly scheduled meeting. [1984 c 238 § 2; 1977 c 64 § 1; 1974 ex.s. c 17 § 1; 1971 ex.s. c 153 § 1; 1939 c 34 § 26; RRS § 5654-126. Formerly RCW 52.12.050.]

52.14.060 Terms of first elected commissioners. At the time of the first general election occurring thirty or more days after the creation of a district, three members of the board of fire commissioners shall be elected. The candidate receiving the highest number of votes shall serve for a term of six years beginning in accordance with RCW 29.04.170, the candidate receiving the next highest number of votes shall serve for a term of four

years, and the candidate receiving the next highest number of votes shall serve for a term of two years. It is the intent of the law that the term of a fire commissioner shall expire biennially and that this relationship be preserved as far as legally possible. [1984 c 230 § 33; 1979 ex.s. c 126 § 33; 1939 c 34 § 27; RRS § 5654-127. Formerly RCW 52.12.060.]

Purpose—1979 ex.s. c 126: See RCW 29.04.170(1).
Candidates for first commissioners: RCW 52.02.070.
Terms of first commissioners: RCW 52.14.010.

52.14.070 Oath of office. Before beginning the duties of office, each fire commissioner shall take and subscribe the official oath for the faithful discharge of the duties of office as required by RCW 29.01.135, which oath shall be filed in the office of the clerk of the superior court in the county in which the district is situated. [1984 c 230 § 34; 1939 c 34 § 29; RRS § 5654-129. Formerly RCW 52.12.070.]

52.14.080 Chairman—Secretary—Duties and oath. The fire commissioners shall elect a chairman from their number and shall appoint a secretary of the district, who may or may not be a member of the board, for such term as they shall by resolution determine. The secretary, if a member of the board, shall not receive additional compensation for serving as secretary.

The secretary of the district shall keep a record of the proceedings of the board, shall perform other duties as prescribed by the board or by law, and shall take and subscribe an official oath similar to that of the fire commissioners which oath shall be filed in the same office as that of the commissioners. [1984 c 230 § 35; 1965 c 112 § 2; 1939 c 34 § 30; RRS § 5654-130. Formerly RCW 52.12.080.]

52.14.090 Office—Meetings. (1) The office of the fire commissioners and principal place of business of the district shall be at some place within the county in which the district is situated, to be designated by the board of fire commissioners.

(2) The board shall hold regular monthly meetings at a place and date as it determines by resolution, and may adjourn its meetings as required for the proper transaction of business. Special meetings of the board shall be called at any time under the provisions of RCW 42.30-.080. [1984 c 230 § 36; 1947 c 254 § 8; 1939 c 34 § 31; Rem. Supp. 1947 § 5654-131. Formerly RCW 52.12.090.]

52.14.100 Meetings—Powers and duties of board. All meetings of the board of fire commissioners shall be conducted in accordance with chapter 42.30 RCW and a majority constitutes a quorum for the transaction of business. All records of the board shall be open to inspection in accordance with the provisions of RCW 42-.17.250 through 42.17.340. The board has the power and duty to adopt a seal of the district, to manage and conduct the business affairs of the district, to make and execute all necessary contracts, to employ any necessary

services, and to adopt reasonable rules to govern the district and to perform its functions, and generally to perform all such acts as may be necessary to carry out the objects of the creation of the district. [1984 c 230 § 37; 1939 c 34 § 32; RRS § 5654-132. Formerly RCW 52.12.100.]

Open public meetings: Chapters 42.30, 42.32 RCW.

52.14.110 Purchases and public works—Competitive bids required—Exceptions. Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

(1) Emergency purchases if the sealed bidding procedure would prevent or hinder the emergency from being addressed appropriately. The term emergency means an occurrence that creates an immediate threat to life or property;

(2) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ten thousand dollars: *Provided*, That whenever the estimated cost is from forty-five hundred dollars up to ten thousand dollars, the commissioners shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal to assure establishment of a competitive price for such purchase;

(3) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of two thousand five hundred dollars, which includes the costs of labor, material, and equipment;

(4) Purchases which are clearly and legitimately limited to a single source of supply, or services, in which instances the purchase price may be best established by direct negotiation: *Provided*, That this subsection shall not apply to purchases or contracts relating to public works as defined in chapter 39.04 RCW; and

(5) Purchases of insurance and bonds. [1984 c 238 § 3.]

52.14.120 Purchases and public works—Competitive bidding procedures. (1) Notice of the call for bids shall be given by posting notice in three public places in the district and by publication once each week for two consecutive weeks. The posting and first publication shall be at least two weeks before the date fixed for opening of the bids, and the publication shall be in a newspaper of general circulation within the district. If no bid is received on the first call, the commissioners may readvertise and make a second call, or may enter into a contract without a further call.

(2) A public work involving three or more specialty contractors requires that the district retain the services of a general contractor as defined in RCW 18.27.010. [1984 c 238 § 4.]

**Chapter 52.16
FINANCES**

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52.16.010	County treasurer as financial agent.
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52.16.080	Bonds may be issued for capital purposes—Excess property tax levies.
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52.16.140	General levy may exceed limit—When.
52.16.150	Donations and bequests to district.
52.16.170	Taxation and assessment of lands lying both within a fire protection district and forest protection assessment area.

52.16.010 County treasurer as financial agent. It is the duty of the county treasurer of the county in which any fire district created under this title is situated to receive and disburse district revenues, to collect taxes and assessments authorized and levied under this title, and to credit district revenues to the proper fund. [1984 c 230 § 38; 1939 c 34 § 33; RRS § 5654-133.]

52.16.020 Funds. In each county in which a fire protection district is situated, there shall be in the county treasurer's office of each district the following funds: (1) Expense fund; (2) reserve fund; (3) local improvement district No. ----- fund; (4) general obligation bond fund; and (5) such other funds as the board of commissioners of the district may establish. Taxes levied for administrative, operative, and maintenance purposes and for the purchase of fire fighting and emergency medical equipment and apparatus and for the purchase of real property, when collected, and proceeds from the sale of general obligation bonds shall be placed by the county treasurer in the proper fund. Taxes levied for the payment of general obligation bonds and interest thereon, when collected, shall be placed by the county treasurer in the general obligation bond fund. The board of fire commissioners may include in its annual budget items of possible outlay to be provided for and held in reserve for any district purpose, and taxes shall be levied therefor. Such taxes, when collected, shall be placed by the county treasurer in the reserve fund. The reserve fund, or any part of it, may be transferred by the county treasurer to other funds of the district at any time by order of the board of fire commissioners. Special assessments levied against the lands in any improvement district within the district, when collected, shall be placed by the county treasurer in the local improvement district fund for the local improvement district. [1984 c 230 § 39; 1983 c 167 § 120; 1959 c 221 § 1; 1955 c 134 § 1; 1953 c 176 § 2; 1951 2nd ex.s. c 24 § 1; 1949 c 22 § 1; 1947 c 254 § 9; 1939 c 34 § 34; Rem. Supp. 1949 § 5654-134.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

52.16.030 Budget for each fund. Annually after the county board of equalization has equalized the assessments for general tax purposes in that year, the secretary of the district shall prepare and certify a budget of the requirements of each district fund, and deliver it to the county legislative authority in ample time for it to make tax levies for district purposes. [1984 c 230 § 40; 1939 c 34 § 35; RRS § 5654–135.]

52.16.040 Tax levies—Assessment roll—Collection. At the time of making general tax levies in each year the county legislative authority shall make the required levies for district purposes against the real and personal property in the district in accordance with the equalized valuations of the property for general tax purposes and as a part of the general taxes. The tax levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district. [1984 c 230 § 41; 1939 c 34 § 36; RRS § 5654–136.]

Levy of taxes: Chapter 84.52 RCW.

52.16.050 Disbursal of funds—Monthly reports. The county treasurer shall pay out money received for the account of the district on warrants issued by the county auditor against the proper funds of the district. The warrants shall be issued on vouchers approved and signed by a majority of the district board and by the district secretary. The county treasurer may also pay general obligation bonds and the accrued interest thereon in accordance with their terms from the general obligation bond fund when interest or principal payments become due. The county treasurer shall report in writing monthly to the secretary of the district the amount of money held by the county in each fund and the amounts of receipts and disbursements for each fund during the preceding month. [1984 c 230 § 42; 1983 c 167 § 121; 1939 c 34 § 37; RRS § 5654–137.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

52.16.061 General obligation bonds—Issuance—Limitations. The board of fire commissioners of the district shall have authority to contract indebtedness and to refund same for any general district purpose, including expenses of maintenance, operation and administration, and the acquisition of firefighting facilities, and evidence the same by the issuance and sale of general obligation bonds of the district payable at such time or times not longer than six years from the issuing date of the bonds. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. Such bonds shall not exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to three-eighths of one percent of the value of the taxable property within the fire protection district, as the term "value of the taxable property" is defined in RCW 39.36.015. [1984 c 186 § 39; 1983 c 167 § 122; 1970 ex.s. c 56 §

66; 1969 ex.s. c 232 § 89; 1955 c 134 § 2; 1953 c 176 § 3.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

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.

52.16.070 Obligations shall not exceed taxes, revenues, and cash balances—Exceptions. Except as authorized by the issuance and sale of general obligation bonds, the creation of local improvements districts, and the issuance of local improvement bonds and warrants of the fire protection district, the board of fire commissioners may not incur expenses or other financial obligations payable in any year in excess of the aggregate amount of taxes levied for that year, revenues derived from all other sources, and the cash balances on hand in the expense and reserve funds of the district on the first day of that year. In the event that there are any unpaid warrants drawn on any district funds for expenses and obligations incurred and outstanding at the end of any calendar year, the warrants may be paid from taxes collected in the subsequent year or years and from other income. [1984 c 230 § 43; 1983 c 167 § 123; 1975 1st ex.s. c 130 § 1; 1972 ex.s. c 16 § 1; 1959 c 221 § 2; 1955 c 134 § 3; 1951 2nd ex.s. c 24 § 10; 1947 c 254 § 11; 1943 c 106 § 1; 1941 c 70 § 5; 1939 c 34 § 39; Rem. Supp. 1947 § 5654–139.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Construction—1975 1st ex.s. c 130: "If any section, clause, or other provision of this 1975 amendatory act, or its application to any person or circumstance, is held invalid, the remainder of such 1975 amendatory act, or the application of such section, clause, or provision to other persons or circumstances, shall not be affected. The rule of strict construction shall have no application to this 1975 amendatory act, but the same shall be liberally construed, in order to carry out the purposes and objects for which this 1975 amendatory act is intended. When this 1975 amendatory act comes in conflict with any provision, limitation, or restriction in any other law, this 1975 amendatory act shall govern and control." [1975 1st ex.s. c 130 § 6.]

52.16.080 Bonds may be issued for capital purposes—Excess property tax levies. Fire protection districts additionally are authorized to incur general indebtedness for capital purposes and to issue general obligation bonds not to exceed an amount, together with any outstanding general obligation indebtedness, equal to three-fourths of one percent of the value of the taxable property within such district, as the term "value of the taxable property" is defined in RCW 39.36.015, and to provide for the retirement thereof by excess property tax levies, when the voters of the district have approved a proposition authorizing such indebtedness and levies by an affirmative vote of three-fifths of those voting on the proposition at such election, at which election the total number of persons voting shall constitute not less than forty percent of the voters in the fire protection district who voted at the last preceding general state election. The maximum term of such bonds may not exceed twenty years. Such bonds shall be issued and sold

in accordance with chapter 39.46 RCW. Such elections shall be held as provided in RCW 39.36.050. [1984 c 186 § 40; 1973 1st ex.s. c 195 § 50; 1970 ex.s. c 42 § 30; 1953 c 176 § 4; 1951 2nd ex.s. c 24 § 3.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

52.16.090 through 52.16.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.16.130 General levy authorized—Limit—Excess levy at special election. To carry out the purposes for which fire protection districts are created, the board of fire commissioners of a district may levy each year, in addition to the levy or levies provided in *RCW 52.16.120 for the payment of the principal and interest of any outstanding general obligation bonds, an ad valorem tax on all taxable property located in the district not to exceed fifty cents per thousand dollars of assessed value: *Provided*, That in no case may the total general levy for all purposes, except the levy for the retirement of general obligation bonds, exceed one dollar per thousand dollars of assessed value. Levies in excess of one dollar per thousand dollars of assessed value or in excess of the aggregate dollar rate limitations or both may be made for any district purpose when so authorized at a special election under RCW 84.52.052. Any such tax when levied shall be certified to the proper county officials for the collection of the tax as for other general taxes. The taxes when collected shall be placed in the appropriate district fund or funds as provided by law, and shall be paid out on warrants of the auditor of the county in which the district is situated, upon authorization of the board of fire commissioners of the district. [1984 c 230 § 44; 1983 c 167 § 126; 1973 1st ex.s. c 195 § 52; 1971 ex.s. c 105 § 1; 1963 ex.s. c 13 § 2; 1951 2nd ex.s. c 24 § 8.]

*Reviser's note: RCW 52.16.120 was repealed by 1984 c 186 § 70.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

52.16.140 General levy may exceed limit—When. Notwithstanding the limitation of dollar rates contained in RCW 52.16.130, the board of fire commissioners of any district may levy, in addition to any levy for the payment of the principal and interest of outstanding general obligation bonds, an ad valorem tax on all property located in the district of not to exceed fifty cents per thousand dollars of assessed value and which will not cause the combined levies to exceed the constitutional or statutory limitations, and the additional levy, or any portion of the levy, may also be made when dollar rates of other taxing units are released by agreement with the other taxing units from their authorized levies. [1984 c 230 § 45; 1983 c 167 § 127; 1973 1st ex.s. c 195 § 53; 1951 2nd ex.s. c 24 § 9.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Levy of taxes: Chapter 84.52 RCW.

52.16.150 Donations and bequests to district. A fire protection district may accept and receive in behalf of the district any money or property donated, devised, or bequeathed to the district, and may carry out the terms of the donation, devise, or bequest, if within the powers granted by law to fire protection districts. In the absence of such terms, a fire protection district may expend or use the money or property for district purposes as determined by the board. [1984 c 230 § 46; 1951 2nd ex.s. c 24 § 11.]

52.16.170 Taxation and assessment of lands lying both within a fire protection district and forest protection assessment area. In the event that lands lie within both a fire protection district and a forest protection assessment area they shall be taxed and assessed as follows:

(1) If the lands are wholly unimproved, they shall be subject to forest protection assessments but not to fire protection district levies;

(2) If the lands are wholly improved, they shall be subject to fire protection district levies but not to forest protection assessments;

(3) If the lands are partly improved and partly unimproved they shall be subject both to fire protection district levies and to forest protection assessments: *Provided*, That upon request, accompanied by appropriate legal descriptions, the county assessor shall segregate any unimproved portions which each consist of twenty or more acres, and thereafter the unimproved portion or portions shall be subject only to forest protection assessments. [1984 c 230 § 47; 1963 ex.s. c 13 § 3.]

Forest protection assessments: RCW 76.04.360.

Chapter 52.20

LOCAL IMPROVEMENT DISTRICTS

Sections	
52.20.010	L.I.D.'s authorized—Petition or resolution method.
52.20.020	Dismissal, approval of petition or resolution of intention—Notice of hearing.
52.20.025	Hearing and subsequent proceedings to be in accordance with laws applicable to cities and towns—Definitions.
52.20.027	Lands subject to forest protection assessments exempt—Separation of forest-type lands for tax and assessment purposes.
52.20.060	Coupon or registered warrants—Payment—Interest—Registration.
52.20.070	Contracts not general district obligations.

52.20.010 L.I.D.'s authorized—Petition or resolution method. If, for fire protection or emergency medical purposes the acquisition, maintenance, and operation of real property, buildings, apparatus, and instrumentalities needed to provide such services are of special benefit to part or all of the lands in the fire protection district, the

board of fire commissioners may include the lands in a local improvement district, and may levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement, on the basis of the special benefits to pay in whole or in part the damages or costs of improvements ordered in the local improvement district. Local improvement districts may be initiated either by resolution of the board of fire commissioners or by petition signed by the owners of a majority of the acreage of lands to be included within the local improvement district.

If the petition procedure is followed, the petition shall set forth generally the necessity for the creation of a local improvement district, outline the plan of fire or emergency medical protection to be accomplished, and the means by which the cost shall be financed. Upon receipt of a petition, the board of fire commissioners of the district shall at its next regular meeting review the petition. The owners of the lands as shown on the general tax roll in the county treasurer's office, last equalized, shall be used to determine the ownership of the lands to be included in the local improvement district. If the petition is sufficient, the district board shall consider the petition and determine whether the proposed local improvement appears feasible and of special benefit to the lands concerned.

If the board of fire commissioners desire[s] to initiate the formation of a local improvement district by resolution, it shall adopt a resolution declaring its intention to order the proposed improvement, set forth the nature and territorial extent of the proposed improvement, designate the number of the proposed district, describe the boundaries, state the estimated costs and expenses of the improvement and the proportionate amount of the costs which will be borne by the property within the proposed district, and fix a date, time, and place for a public hearing on the formation of the proposed district. [1984 c 230 § 48; 1975 1st ex.s. c 130 § 2; 1961 c 161 § 1; 1939 c 34 § 40; RRS § 5654-140.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.020 Dismissal, approval of petition or resolution of intention—Notice of hearing. If the petition is found insufficient or if the district board determines that a local improvement district is not feasible or is of no special benefit to the lands concerned, it shall dismiss the petition. If the district board approves the petition or adopts a resolution of intention to order an improvement, it shall fix a date, hour, and place for hearing the matter and shall (1) mail notice of the hearing at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of each lot, tract, or parcel of land within the proposed local improvement district as shown on the tax rolls of the county treasurer at the address shown thereon, and (2) publish notice of the hearing in a newspaper of general circulation in the county, for three consecutive weeks prior to the day of the hearing. The cost of publication shall be paid by the fire protection district. The notices shall describe the

boundaries of the proposed local improvement district and the plan of fire or emergency medical protection proposed, or may refer to the resolution of intention describing the nature and territorial extent of the proposed improvement. The notices shall state the means by which the cost shall be financed, shall state the date, hour, and place of the hearing on the petition and shall be signed by the secretary of the fire protection district. In addition, the notice given each owner or reputed owner by mail shall state the estimated cost and expense of the improvement to be borne by the particular lot, tract, or parcel. [1984 c 230 § 49; 1975 1st ex.s. c 130 § 3; 1961 c 161 § 2; 1939 c 34 § 41; RRS § 5654-141.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.025 Hearing and subsequent proceedings to be in accordance with laws applicable to cities and towns—Definitions. The hearing and all subsequent proceedings in connection with the local improvement, including but not limited to the levying, collection, and enforcement of local improvement assessments, and the authorization, issuance, and payment of local improvement bonds and warrants shall be in accordance with the provisions of law applicable to cities and towns set forth in chapters 35.43, 35.44, 35.45, 35.49, 35.50, and 35.53 RCW. Fire protection districts may exercise the powers set forth in those chapters: *Provided*, That no local improvement guaranty fund may be created: *Provided further*, That for the purposes of RCW 52.16.070, 52.20.010, 52.20.020, and 52.20.025, with respect to the powers granted and the duties imposed in chapters 35.43, 35.44, 35.45, 35.50, and 35.53 RCW:

(1) The words "city or town" mean fire protection district.

(2) The secretary of a fire protection district shall perform the duties of the "clerk" or "city or town clerk."

(3) The board of fire commissioners of a fire protection district shall perform the duties of the "council" or "city or town council" or "legislative authority of a city or town."

(4) The board of fire commissioners of a fire protection district shall perform the duties of the "mayor."

(5) The word "ordinance" means a resolution of the board of fire commissioners of a fire protection district.

(6) The treasurer of the county in which a fire protection district is situated shall perform the duties of the "treasurer" or "city or town treasurer." [1984 c 230 § 50; 1975 1st ex.s. c 130 § 4; 1961 c 161 § 3.]

Severability—Construction—1975 1st ex.s. c 130: See note following RCW 52.16.070.

52.20.027 Lands subject to forest protection assessments exempt—Separation of forest-type lands for tax and assessment purposes. RCW 52.20.010, 52.20.020, and 52.20.025 shall not apply to any tracts or parcels of wholly forest-type lands within the district which are required to pay forest protection assessments, as required by RCW 76.04.360; however, both the tax levy or special assessments of the district and the forest patrol assessment shall apply to the forest land portion of any

tract or parcel which is in the district containing a combination of both forest-type lands and nonforest-type lands or improvements: *Provided*, That an owner has the right to have forest-type lands of more than twenty acres in extent separated from land bearing improvements and from nonforest-type lands for taxation and assessment purposes upon furnishing to the assessor a written request containing the proper legal description. [1984 c 230 § 51; 1961 c 161 § 5.]

52.20.060 Coupon or registered warrants—Payment—Interest—Registration. (1) The district board may also, if in accordance with the adopted method of financing the local improvement district, issue and sell at par and accrued interest coupon or registered warrants payable within three years from the date thereof exclusively from the local improvement fund of the district. The coupon or registered warrants shall bear semiannual interest and shall be in such form as the board determines and shall state on their face that they are payable exclusively from the local improvement fund of the district. Interest shall be payable on the first day of January and of July. Such warrants may be registered as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such warrants may be issued and sold in accordance with chapter 39.46 RCW. [1984 c 230 § 52; 1983 c 167 § 129; 1970 ex.s. c 56 § 68; 1969 ex.s. c 232 § 90; 1939 c 34 § 45; RRS § 5654-145.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

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.

52.20.070 Contracts not general district obligations. A fire protection district shall not be liable under any contract creating an obligation chargeable against the lands of any local improvement district therein, unless the liability and the extent thereof is specifically stated in the contract. [1984 c 230 § 53; 1939 c 34 § 21; RRS § 5654-121.]

Chapter 52.22

SPECIAL PROCEEDINGS

(Formerly: Withdrawal)

Sections

52.22.010	Recodified as RCW 52.08.011.
52.22.011	Legislative validation.
52.22.020	Recodified as RCW 52.08.021.
52.22.021	Special proceedings for judicial confirmation of organization, bonds, warrants, contracts, etc.
52.22.031	Petition.
52.22.040	Recodified as RCW 52.08.035.
52.22.041	Hearing date to be fixed—Notice.
52.22.050	Recodified as RCW 52.08.041.
52.22.051	Answer of petition.
52.22.060	Recodified as RCW 52.08.051.
52.22.061	Pleading and practice—Motion for new trial.
52.22.071	Jurisdiction of court.
52.22.081	Minor irregularities to be disregarded.
52.22.091	Costs.
52.22.101	Appeal.

52.22.111 Districts governed by Title 52 RCW.

52.22.010 Recodified as RCW 52.08.011. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.22.011 Legislative validation. The respective areas, organized and established or attempted to be organized and established under the authority granted in chapter 34, Laws of 1939, as amended, which since their organization and establishment or attempted organization and establishment have continuously maintained their organization as fire protection districts established under the authority of these statutes are declared to be properly organized fire protection districts existing under and by virtue of the statutes having in each case, the boundaries set forth in the respective organization proceedings of each of them as shown by the files and records in the offices of the legislative authority and auditor of the county in which the particular area lies. [1984 c 230 § 66; 1947 c 230 § 1; Rem. Supp. 1947 § 5654-151o. Formerly RCW 52.32.010.]

52.22.020 Recodified as RCW 52.08.021. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.22.021 Special proceedings for judicial confirmation of organization, bonds, warrants, contracts, etc. The board of fire commissioners of a fire protection district now existing or which may be organized under the laws of this state may commence a special proceeding in the superior court of the state of Washington. These proceedings for the organization of the fire district, for the formation of any local improvement district therein, or proceedings for the authorization, issuance, and sale of coupon or registered warrants or general obligation bonds issued pursuant to RCW 52.16.061, either of the fire district or for a local improvement district therein, or both, whether the bonds or coupon or registered warrants have been sold, or proceedings for any contract of the district involving the fire district or any local improvement district therein, and any other proceedings that may affect the legality of the proceedings concerned or any or all of the proceedings above outlined, may be judicially examined, approved, and confirmed. [1984 c 230 § 67; 1983 c 167 § 130; 1947 c 255 § 1; Rem. Supp. 1947 § 5654-153a. Formerly RCW 52.34.010 and 52.32.020.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1947 c 255: "If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or of any section, provision, or part thereof not adjudged to be invalid or unconstitutional." [1947 c 255 § 10.] This applies to RCW 52.22.021 through 52.22.101.

52.22.031 Petition. The board of fire commissioners of the fire protection district shall file in the superior court of the county in which the fire protection district was organized, a petition requesting in effect that the proceedings be examined, approved, and confirmed by

the court. The petition shall state the facts showing any of the proceedings that the petition asks the court to examine, approve, and confirm, but need allege only generally that the fire protection district was properly organized and that the first board of fire commissioners was properly elected. [1984 c 230 § 68; 1947 c 255 § 2; Rem. Supp. 1947 § 5654–153b. Formerly RCW 52.34-.020 and 52.32.030.]

52.22.040 Recodified as RCW 52.08.035. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.22.041 Hearing date to be fixed—Notice. The court shall fix the time for the hearing of the petition and direct the clerk of the court to give notice of the filing of the petition and of the time and place fixed for the hearing. The notice shall state the time and place of the hearing of the petition and that any person interested in the proceedings sought by the petition to be examined, approved, and confirmed by the court, may on or before the date of the hearing of the petition, answer the petition. The petition may be referred to and described in the notice as the petition of the board of fire commissioners of ----- county fire protection district No. ----- (giving the county and its number or any other name by which it is officially designated), requesting that the proceedings (naming them as set out in the request of the petition), be examined, approved, and confirmed by the court, and shall be signed by the clerk.

The notice shall be given by posting and publishing for the same length of time that the notice of the hearing on the petition before the county legislative body to form the district was required by law to be posted and published, and it may be published in any legal newspaper designated in the order of the court fixing the time and place of the hearing of the petition and directing the clerk of the court to give notice thereof. [1984 c 230 § 69; 1947 c 255 § 3; Rem. Supp. 1947 § 5654–153c. Formerly RCW 52.34.030 and 52.32.040.]

Notice—Publication and posting: RCW 52.02.050.

52.22.050 Recodified as RCW 52.08.041. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.22.051 Answer of petition. A person interested in the fire protection district, or in a local improvement district therein, involved in the petition or in any proceedings sought by the petition to be examined, approved, and confirmed by the court, may answer the petition. The statutes of this state respecting answers to verified complaints are applicable to answers to the petition. The person so answering the petition shall be the defendant in the special proceeding, and the board of fire commissioners shall be the plaintiff. Every material statement of the petition not specifically controverted by the answer must, for purposes of the special proceedings, be taken as true, and each person failing to answer the petition is deemed to admit as true all the material

statements of the petition. [1984 c 230 § 70; 1947 c 255 § 4; Rem. Supp. 1947 § 5654–153d. Formerly RCW 52.34.040 and 52.32.050.]

Pleadings: Chapters 4.32, 4.36 RCW.

52.22.060 Recodified as RCW 52.08.051. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.22.061 Pleading and practice—Motion for new trial. The rules of pleading and practice governing civil actions are applicable to the special proceedings provided for except where inconsistent with this chapter. A motion for a new trial must be made upon the minutes of the court and in case of an order granting a new trial, the order must specify the issue to be reexamined at the new trial. The findings of the court on the other issues shall not be affected by the order granting a new trial. [1984 c 230 § 71; 1947 c 255 § 5; Rem. Supp. 1947 § 5654–153e. Formerly RCW 52.34.050 and 52.32.060.]

New trials: Chapter 4.76 RCW.

52.22.071 Jurisdiction of court. At the hearing of the special proceedings, the court has power and jurisdiction to examine and determine the legality and validity of, and to approve and confirm, each and all of the proceedings for the organization of the fire protection district and for the formation of any local improvement district therein under the law relating to such districts from and including the petition for the organization of the fire district and for the formation of any local improvement district therein and all other proceedings which affect the legality of the districts, or the validity and legality of any coupon or registered warrants or bonds either of the fire district or for a local improvement district therein and all proceedings conducted by the fire district for a contract of the district involving the fire district or a local improvement district therein, and any other proceeding which may affect the legality of the proceedings concerned. [1984 c 230 § 72; 1983 c 167 § 131; 1947 c 255 § 6; Rem. Supp. 1947 § 5654–153f. Formerly RCW 52.34.060 and 52.32.070.]

Liberal construction—Severability—1983 c 167: See RCW 39-.46.010 and note following.

52.22.081 Minor irregularities to be disregarded. The court has full authority and jurisdiction to consider any question of laches, estoppel, and other infirmities in the position and claims of the defendants, to question the legality of the proceedings sought by the plaintiff to be confirmed by the court, and to pass upon and determine them. The court, in inquiring into the regularity, legality, and correctness of the proceedings sought by the board of fire commissioners in its petition to be examined, approved, and confirmed by the court, must disregard any error, irregularity, or omission which does not affect the substantial rights of the parties to the special proceedings. The court may approve and confirm the proceedings in part, and disapprove and declare illegal or invalid other or subsequent parts of the proceedings, or it may approve and confirm all of the proceedings,

and make and enter its decree accordingly. [1984 c 230 § 73; 1947 c 255 § 7; Rem. Supp. 1947 § 5654–153g. Formerly RCW 52.34.070 and 52.32.080.]

52.22.091 Costs. The court shall find and determine, in these special proceedings, whether the notice of the filing of the petition and of the time and place of hearing on the petition has been properly posted and published for the time and in the manner prescribed in this chapter. The costs of the special proceedings may be allowed and apportioned between all the parties, in the court's discretion. [1984 c 230 § 74; 1947 c 255 § 8; Rem. Supp. 1947 § 5654–153h. Formerly RCW 52.34.080 and 52.32.090.]

52.22.101 Appeal. An appeal from an order granting or refusing a new trial, or from the judgment, in the special proceedings must be taken by the party aggrieved within thirty days after the entry of the order or the judgment. [1984 c 230 § 75; 1947 c 255 § 9; Rem. Supp. 1947 § 5654–153i. Formerly RCW 52.34.090 and 52.32.100.]

Rules of court: Cf. RAP 2.2, 18.22.

52.22.111 Districts governed by Title 52 RCW. All fire protection districts are governed by Title 52 RCW. [1984 c 230 § 86.]

Chapter 52.24 MERGERS

Sections

52.24.010	Recodified as RCW 52.06.010.
52.24.020	Recodified as RCW 52.06.020.
52.24.030	Recodified as RCW 52.06.030.
52.24.040	Recodified as RCW 52.06.040.
52.24.050	Recodified as RCW 52.06.050.
52.24.060	Recodified as RCW 52.06.060.
52.24.070	Recodified as RCW 52.06.070.
52.24.080	Recodified as RCW 52.06.080.
52.24.085	Recodified as RCW 52.06.085.
52.24.090	Recodified as RCW 52.06.090.
52.24.100	Recodified as RCW 52.06.100.

52.24.010 Recodified as RCW 52.06.010. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.020 Recodified as RCW 52.06.020. See Supplementary Table of Disposition of Former RCW Sections, this volume. ~

52.24.030 Recodified as RCW 52.06.030. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.040 Recodified as RCW 52.06.040. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.050 Recodified as RCW 52.06.050. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.060 Recodified as RCW 52.06.060. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.070 Recodified as RCW 52.06.070. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.080 Recodified as RCW 52.06.080. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.085 Recodified as RCW 52.06.085. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.090 Recodified as RCW 52.06.090. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.24.100 Recodified as RCW 52.06.100. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.28 BURNING PERMITS

Sections

52.28.010	Recodified as RCW 52.12.101.
52.28.020	Recodified as RCW 52.12.102.
52.28.030	Recodified as RCW 52.12.103.
52.28.040	Recodified as RCW 52.12.104.
52.28.050	Recodified as RCW 52.12.105.

52.28.010 Recodified as RCW 52.12.101. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.28.020 Recodified as RCW 52.12.102. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.28.030 Recodified as RCW 52.12.103. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.28.040 Recodified as RCW 52.12.104. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.28.050 Recodified as RCW 52.12.105. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.30 MISCELLANEOUS PROVISIONS

Sections

52.30.010	Special elections—Qualifications of electors.
52.30.020	Property of public agency included within district— Contracts for services.
52.30.040	Civil service for employees.

52.30.050 Residency not grounds for discharge of civil service employees.

52.30.010 Special elections—Qualifications of electors. Special elections submitting propositions to the electors of a fire district may be called at any time by resolution of the board of fire district commissioners, and shall be conducted in the same manner and by the same officials as provided for the election to determine whether the district shall be created. The qualifications for electors at all district elections shall be the same as for elections at general state and county elections. [1984 c 230 § 76; 1939 c 34 § 28; RRS § 5654–128. Formerly RCW 52.36.010.]

52.30.020 Property of public agency included within district—Contracts for services. Wherever a fire protection district has been organized which includes within its area or is adjacent to, buildings and equipment, except those leased to a nontax exempt person or organization, owned by the legislative or administrative authority of a state agency or institution or a municipal corporation, the agency or institution or municipal corporation involved shall contract with such district for fire protection services necessary for the protection and safety of personnel and property pursuant to the provisions of chapter 39.34 RCW, as now or hereafter amended: *Provided*, That nothing in this section shall be construed to require that any state agency, institution, or municipal corporation contract for services which are performed by the staff and equipment of such state agency, institution, or municipal corporation: *Provided further*, That nothing in this section shall apply to state agencies or institutions or municipal corporations which are receiving fire protection services by contract from another municipality, city, town or other entities: *And provided further*, That school districts shall receive fire protection services from the fire protection districts in which they are located without the necessity of executing a contract for such fire protection services: *Provided further*, That prior to September 1, 1974 the superintendent of public instruction, the insurance commissioner, the director of financial management, and the executive director of the Washington fire commissioners association, or their designees, shall develop criteria to be used by the insurance commissioner in establishing uniform rates governing payments to fire districts by school districts for fire protection services. On or before September 1, 1974, the insurance commissioner shall establish such rates to be payable by school districts on or before January 1st of each year commencing January 1, 1975, payable July 1, 1975: *And provided further*, That beginning with the 1975–77 biennium and in each biennium thereafter the superintendent of public instruction shall present in his budget submittal to the governor an amount sufficient to reimburse affected school districts for the moneys necessary to pay the costs of the uniform rates established by the insurance commissioner. [1979 c 151 § 164; 1974 ex.s. c 88 § 1; 1973 1st ex.s. c 64 § 1; 1941 c 139 § 1; Rem. Supp. 1941 § 5654–143a. Formerly RCW 52.36.020.]

Effective date—1974 ex.s. c 88: "This 1974 amendatory act shall take effect on July 1, 1974." [1974 ex.s. c 88 § 2.]

Effective date—1973 1st ex.s. c 64: "This 1973 amendatory act shall take effect on July 1, 1974." [1973 1st ex.s. c 64 § 2.]

Fire, medical, or other emergency services provided to county by political subdivision—Financial assistance authorized: RCW 36.32.470.

Fire protection services for state-owned buildings: RCW 35.21.775.

52.30.040 Civil service for employees. A fire protection district with a fully-paid fire department may, by resolution of its board of fire commissioners, provide for civil service in its fire department in the same manner, with the same powers, and with the same force and effect as provided by chapter 41.08 RCW for cities, towns, and municipalities, including restrictions against the discharge of an employee because of residence outside the limits of the fire protection district. [1984 c 230 § 79; 1971 ex.s. c 256 § 2; 1949 c 72 § 1; Rem. Supp. 1949 § 5654–120a. Formerly RCW 52.36.060.]

52.30.050 Residency not grounds for discharge of civil service employees. Residence of an employee outside the limits of a fire protection district is not grounds for discharge of any regularly-appointed civil service employee otherwise qualified. [1984 c 230 § 80; 1971 ex.s. c 256 § 1. Formerly RCW 52.36.065.]

Chapter 52.32

VALIDATION

Section

52.32.010 Recodified as RCW 52.22.011.

52.32.010 Recodified as RCW 52.22.011. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.34

VALIDATION PROCEDURE

Sections

52.34.010 Recodified as RCW 52.22.021.
 52.34.020 Recodified as RCW 52.22.031.
 52.34.030 Recodified as RCW 52.22.041.
 52.34.040 Recodified as RCW 52.22.051.
 52.34.050 Recodified as RCW 52.22.061.
 52.34.060 Recodified as RCW 52.22.071.
 52.34.070 Recodified as RCW 52.22.081.
 52.34.080 Recodified as RCW 52.22.091.
 52.34.090 Recodified as RCW 52.22.101.

52.34.010 Recodified as RCW 52.22.021. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.020 Recodified as RCW 52.22.031. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.030 Recodified as RCW 52.22.041. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.040 Recodified as RCW 52.22.051. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.050 Recodified as RCW 52.22.061. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.060 Recodified as RCW 52.22.071. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.070 Recodified as RCW 52.22.081. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.080 Recodified as RCW 52.22.091. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.34.090 Recodified as RCW 52.22.101. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 52.36

MISCELLANEOUS PROVISIONS

Sections

52.36.010	Recodified as RCW 52.30.010.
52.36.020	Recodified as RCW 52.30.020.
52.36.025	Recodified as RCW 52.12.111.
52.36.027	Recodified as RCW 52.12.121.
52.36.040	Decodified.
52.36.050	Decodified.
52.36.060	Recodified as RCW 52.30.040.
52.36.065	Recodified as RCW 52.30.050.
52.36.080	Decodified.
52.36.090	Recodified as RCW 52.12.131.
52.36.095	Repealed.

52.36.010 Recodified as RCW 52.30.010. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.020 Recodified as RCW 52.30.020. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.025 Recodified as RCW 52.12.111. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.027 Recodified as RCW 52.12.121. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.040 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.050 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.060 Recodified as RCW 52.30.040. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.065 Recodified as RCW 52.30.050. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.080 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.090 Recodified as RCW 52.12.131. See Supplementary Table of Disposition of Former RCW Sections, this volume.

52.36.095 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 53

PORT DISTRICTS

Chapters

53.08	Powers.
53.25	Industrial development districts—Marginal lands.
53.32	Lease of state-owned harbor areas.
53.34	Toll facilities.
53.36	Finances.
53.43	Validation of indebtedness in certain districts—Funding or refunding indebtedness—1941 act.
53.44	Funding and refunding indebtedness—1947 act.
53.54	Aircraft noise abatement.

Chapter 53.08

POWERS

Sections

53.08.255	Tourism promotion authorized.
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53.08.255 **Tourism promotion authorized.** Any port district in this state, acting through its commission, has power to expend moneys and conduct promotion of resources and facilities in the district or general area by advertising, publicizing, or otherwise distributing information to attract visitors and encourage tourist expansion. [1984 c 122 § 10.]

Chapter 53.25

INDUSTRIAL DEVELOPMENT DISTRICTS— MARGINAL LANDS

Sections

53.25.140	Action on determination—Sale by competitive bid or negotiation.
53.25.150	Competitive bids—Conditions—Acceptance.

53.25.140 Action on determination—Sale by competitive bid or negotiation. If the determination is against the sale, all proceedings thereon shall terminate. If the commission determines in favor of the sale by at least a two-thirds vote of the full commission, it shall in its discretion, either enter an order fixing a period, not less than twenty nor more than thirty days from the date of the order, during which bids will be received for the property or any part thereof, and give notice thereof in the same manner as for the hearing on the proposal to sell or negotiate the sale with an appropriate purchaser, provided that in any such negotiated sale the purchase price must not be less than the fair market value of the property which shall be determined by an average of at least two independent appraisals performed by licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020. Whether the property is sold by competitive bidding or negotiation, other real property conveyed by the purchaser to the commission may constitute all or a portion of the consideration for the sale. [1984 c 195 § 1; 1955 c 73 § 14. Prior: 1939 c 45 § 12; RRS § 9709-12; RCW 53.28.040.]

53.25.150 Competitive bids—Conditions—Acceptance. If the commission chooses to sell the property through competitive bidding under RCW 53.25.140:

(1) Bids may be submitted for the property or any part of it, shall state the use which the bidder intends to make of it, and the commission may require the successful bidder to file additional information as to the intended use, and may require of him security as assurance that the property will be used for that purpose;

(2) All sales shall be made to the best bidder, and in determining the best bid, the commission may also consider the nature of the proposed use and the relation thereof to the improvement of the harbor and the business and facilities thereof;

(3) Within thirty days after the last day for submitting bids, the commission shall decide which if any bids it accepts. All sales shall be made upon such terms and conditions as the commission may prescribe. [1984 c 195 § 2; 1955 c 73 § 15. Prior: 1939 c 45 § 13, part; RRS § 9709-13, part; RCW 53.28.050.]

Chapter 53.32

LEASE OF STATE-OWNED HARBOR AREAS

Sections

53.32.010 through 53.32.070 Repealed. (Effective October 1, 1984.)

53.32.900 Repealed. (Effective October 1, 1984.)

53.32.010 through 53.32.070 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

53.32.900 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 53.34 TOLL FACILITIES

Sections

53.34.010 Toll bridges, tunnels authorized—Highway approaches.

53.34.180 Public agencies authorized to contract with district for contribution of money, property, services, etc.

53.34.010 Toll bridges, tunnels authorized—Highway approaches. In addition to all other powers granted to port districts, any such district may, with the consent of the department of transportation, acquire by condemnation, purchase, lease, or gift, and may construct, reconstruct, maintain, operate, furnish, equip, improve, better, add to, extend, and lease to others in whole or in part and sell in whole or in part any one or more of the following port projects, within or without or partially within and partially without the corporate limits of the district whenever the commission of the district determines that any one or more of such projects are necessary for or convenient to the movement of commercial freight and passenger traffic a part of which traffic moves to, from, or through the territory of the district:

(1) Toll bridges;

(2) Tunnels under or upon the beds of any river, stream, or other body of water, or through mountain ranges.

In connection with the acquisition or construction of any one or more of such projects the port districts may, with the consent of the state department of transportation, further acquire or construct, maintain, operate, or improve limited or unlimited access highway approaches of such length as the commission of such district deems advisable to provide means of interconnection of the facilities with public highways and of ingress and egress to any such project, including plazas and toll booths, and to construct and maintain under, along, over, or across any such project telephone, telegraph, or electric transmission wires and cables, fuel lines, gas transmission lines or mains, water transmission lines or mains, and other mechanical equipment not inconsistent with the appropriate use of the project, all for the purpose of obtaining revenues for the payment of the cost of the project. [1984 c 7 § 365; 1959 c 236 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

53.34.180 Public agencies authorized to contract with district for contribution of money, property, services, etc. Any public agency, including without limitation the department of transportation, may contract with a port district that is constructing a project or projects under this chapter for the contribution of moneys or real or personal property in aid of the construction of the projects, or for the furnishing of engineering, legal, police, and fire protection, and all other services necessary or convenient to the acquisition, construction, reconstruction, operation, maintenance, renewal, replacement, improvement, additions to, or extension of the project or projects. The contracts shall run for such period of years

and contain such terms and conditions as the parties thereto mutually agree upon. Any public agency, by resolution, may authorize the execution of the contracts with a port district and no other authorization on the part of the public agency is necessary, regardless of any provision of laws or of a city charter to the contrary. Obligations assumed by a public agency under the contracts entered into under this chapter shall be included and provided for in each annual budget of the public agency made thereafter until all the obligations have been fully discharged. [1984 c 7 § 366; 1959 c 236 § 18.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 53.36 FINANCES

Sections

53.36.030 Indebtedness—Limitation.

53.36.030 Indebtedness—Limitation. A district may at any time contract indebtedness or borrow money for district purposes and may issue general obligation bonds therefor not exceeding an amount, together with any existing indebtedness of the district not authorized by the voters, of one-fourth of one percent of the value of the taxable property in the district; and, with the assent of three-fifths of the voters voting thereon at a general or special port election called for that purpose, may contract indebtedness or borrow money for district purposes and may issue general obligation bonds therefor provided the total indebtedness of the district at any such time shall not exceed three-fourths of one percent of the value of the taxable property in the district: *Provided further*, That port districts having less than two hundred million dollars in value of taxable property and operating a municipal airport may at any time contract indebtedness or borrow money for airport capital improvement purposes and may issue general obligation bonds therefor not exceeding an additional one-eighth of one percent of the value of the taxable property in the district without authorization by the voters; and, with the assent of three-fifths of the voters voting thereon at a general or special port election called for that purpose, may contract indebtedness or borrow money for airport capital improvement purposes and may issue general obligation bonds therefor for an additional three-eighths of one percent provided the total indebtedness of the district for all port purposes at any such time shall not exceed one and one-fourth percent of the value of the taxable property in the district. Any district may issue general district bonds evidencing any indebtedness, payable at any time not exceeding fifty years from the date of the bonds. Such elections shall be held as provided in RCW 39.36.050.

The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015.

Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 41; 1970 ex.s. c

42 § 32; 1965 ex.s. c 54 § 1; 1959 c 52 § 1; 1955 c 65 § 12. Prior: 1943 c 166 § 2, part; 1921 c 183 § 1, part; 1917 c 125 § 1, part; 1911 c 92 § 4, part; Rem. Supp. 1943 § 9692, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Elections to authorize port district bonds: Chapter 39.40 RCW.

General provisions applicable to district bonds: Chapter 39.44 RCW.

Limitation upon indebtedness: State Constitution Art. 8 § 6 (Amendment 27); Chapter 39.36 RCW.

Port district indebtedness authorized, emergency public works: RCW 39.28.030.

Chapter 53.43

VALIDATION OF INDEBTEDNESS IN CERTAIN DISTRICTS—FUNDING OR REFUNDING INDEBTEDNESS—1941 ACT

Sections

53.43.010 through 53.43.070 Repealed.

53.43.010 through 53.43.070 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 53.44

FUNDING AND REFUNDING INDEBTEDNESS— 1947 ACT

Sections

53.44.010 Funding and refunding authorized.
53.44.020 Repealed.
53.44.030 Maturities—Payment.
53.44.040 Repealed.

53.44.010 Funding and refunding authorized. The board of commissioners of any port district of the state may fund or refund any of the general bonded indebtedness and/or warrants of the district now or hereafter existing and accrued interest thereon, and may combine various series and/or issues of warrants and/or bonds into a single issue of funding or refunding bonds, by the issuance of general obligation funding or refunding bonds, when the board, by resolution, finds, determines, and declares that such proposed funding or refunding will inure to the benefit and credit of the district and will not result in an increase of the district's indebtedness or in an increase in the rate of interest borne by the indebtedness so funded or refunded. Such funding or refunding may be accomplished by the sale of said funding or refunding bonds or by their exchange for the bonds and/or warrants to be refunded. General obligation bonds of a port district which do not provide for prior redemption, may also be refunded with the consent of the holders thereof. Such bonds shall be issued in accordance with chapter 39.46 RCW. [1984 c 186 § 42; 1947 c 239 § 1; Rem. Supp. 1947 § 5623-1.]

Purpose—1984 c 186: See note following RCW 39.46.110.

53.44.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

53.44.030 Maturities—Payment. Such funding or refunding bonds shall run for a period of not exceeding twenty years from date thereof. The board may apply to the payment of the funding or refunding bonds and to the prior redemption thereof any other moneys or funds belonging to the district which are legally available for such purpose. [1984 c 186 § 43; 1947 c 239 § 3; Rem. Supp. 1947 § 5623–3.]

Purpose—1984 c 186: See note following RCW 39.46.110.

53.44.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 53.54

AIRCRAFT NOISE ABATEMENT

Sections

53.54.020 Investigation and monitoring of noise impact—Programs to conform to needs—"Impacted areas".

53.54.020 Investigation and monitoring of noise impact—Programs to conform to needs—"Impacted areas". Prior to initiating programs as authorized in this chapter, the port commission shall undertake the investigation and monitoring of aircraft noise impact to determine the nature and extent of the impact. The port commission shall adopt a program of noise impact abatement based upon the investigations and as amended periodically to conform to needs demonstrated by the monitoring programs: *Provided*, That in no case may the port district undertake any of the programs of this chapter in an area which is more than six miles beyond the paved end of any runway or more than one mile from the centerline of any runway or from an imaginary runway centerline extending six miles from the paved end of such runway. Such areas as determined above, shall be known as "impacted areas". [1984 c 193 § 1; 1979 c 85 § 1; 1974 ex.s. c 121 § 2.]

Title 54

PUBLIC UTILITY DISTRICTS

Chapters

54.04 General provisions.
54.16 Powers.
54.24 Finances.
54.52 Voluntary contributions to assist low-income customers.

Chapter 54.04

GENERAL PROVISIONS

Sections

54.04.050 Group employee insurance—Annuities—Retirement income policies.

54.04.050 Group employee insurance—Annuities—Retirement income policies. (1) Any public utility district engaged in the operation of electric or water utilities may enter into contracts of group insurance for the benefit of its employees, and pay all or any part of the premiums for such insurance. Such premiums shall be paid out of the revenues derived from the operation of such properties: *Provided*, That if the premium is to be paid by the district and employees jointly, and the benefits of the policy are offered to all eligible employees, not less than seventy-five percent of such employees may be so insured.

(2) A public utility district whose employees or officials are not members of the state retirement system engaged in the operation of electric or water utilities may contract for individual annuity contracts, retirement income policies or group annuity contracts, including prior service, to provide a retirement plan, or any one or more of them, and pay all or any part of the premiums therefor out of the revenue derived from the operation of its properties. [1984 c 15 § 1; 1959 c 233 § 1; 1941 c 245 § 8; Rem. Supp. 1941 § 11616–6.]

Severability—1941 c 245: "If any section or provision of this act shall be adjudged to be invalid, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged to be invalid." [1941 c 245 § 11.]

Group insurance: Chapters 48.21 and 48.24 RCW.

Chapter 54.16

POWERS

Sections

54.16.070 May borrow money, contract indebtedness, issue bonds or obligations—Guaranty fund.
 54.16.285 Limitations on termination of utility service for residential heating—Expiration of section.
 54.16.286 Report to legislature—Expiration of section—1984 c 251.
 54.16.290 Residential customers to be offered budget billing or equal payment plan.

54.16.070 May borrow money, contract indebtedness, issue bonds or obligations—Guaranty fund. (1) A district may contract indebtedness or borrow money for any corporate purpose on its credit or on the revenues of its public utilities, and to evidence such indebtedness may issue general obligation bonds or revenue obligations; may issue and sell local utility district bonds of districts created by the commission, and may purchase with surplus funds such local utility district bonds, and may create a guaranty fund to insure prompt payment of all local utility district bonds. The general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW.

(2) Notwithstanding subsection (1) of this section, such revenue obligations and local utility district bonds may be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 44; 1983 c 167 § 144; 1959 c 218 § 1; 1955 c 390 § 8. Prior: 1945 c 143 § 1(f); 1931 c 1 § 6(f); Rem. Supp. 1945 § 11610(f).]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39-46.010 and note following.

54.16.285 Limitations on termination of utility service for residential heating—Expiration of section. (1) A district providing utility service for residential space heating shall not terminate such utility service between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(b) Brings a statement from the department of social and health services or a grantee of the *planning and community affairs agency which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(2) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination [and] a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area; and

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this section.

(4) This section shall expire June 30, 1986. [1984 c 251 § 2.]

Reviser's note: *(1) "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

(2) Subsection (3) of this section was vetoed.

54.16.286 Report to legislature—Expiration of section—1984 c 251. Until 1986, districts distributing electricity shall report annually to the legislature for utilities subject to its jurisdiction: (1) The extent to which chapter 251, Laws of 1984 benefits low income persons, and (2) the costs and benefits to other customers.

This section shall expire June 30, 1986. [1984 c 251 § 6.]

Reviser's note: Chapter 251, Laws of 1984 consists of the amendments to RCW 35.21.300 and 80.28.010 and the enactment of RCW 35.21.301, 54.16.285, 54.16.286, 54.16.290, and 80.28.011.

54.16.290 Residential customers to be offered budget billing or equal payment plan. All districts shall offer to residential customers the option of a budget billing or equal payment plan. [1984 c 251 § 3.]

Chapter 54.24 FINANCES

Sections

54.24.018 Acquisition of property—Adoption of plan—Bonds or warrants—Special funds.

54.24.018 Acquisition of property—Adoption of plan—Bonds or warrants—Special funds. (1) Whenever the commission shall deem it advisable that the public utility district purchase, purchase and condemn, acquire, or construct any such public utility, or make any additions or betterments thereto, or extensions thereof, the commission 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, and specify whether general or utility indebtedness is to be incurred, the amount of such indebtedness, the amount of interest and the time in which all general bonds (if any) shall be paid, not to exceed thirty years. In the event the proposed general indebtedness to be incurred will bring the nonvoter approved indebtedness of the public utility district to an amount exceeding three-fourths of one percent of the value of the taxable property of the public utility district, as the term "value of the taxable property" is defined in RCW 39.36.015, the proposition of incurring such indebtedness and the proposed plan or system shall be submitted to the qualified electors of said public utility district for their approval or rejection at the next general election held in such public utility district. Elections shall be held as provided in RCW 39.36.050.

Whenever the commission (or a majority of the qualified voters of such public utility district, voting at said election, when it is necessary to submit the same to said voters) shall have adopted a system or plan for any such public utility, as aforesaid, and shall have authorized indebtedness therefor by a three-fifths vote of the qualified voters of such district, voting at said election, general or public utility bonds may be used as hereinafter provided. The principal and interest of such general

bonds shall be paid from the revenue of such public utility district after deducting costs of maintenance, operation, and expenses of the public utility district, and any deficit in the payment of principal and interest of said general bonds shall be paid by levying each year a tax upon the taxable property within said district sufficient to pay said interest and principal of said bonds, which tax shall be due and collectible as any other tax. Said bonds shall be issued and sold in accordance with chapter 39.46 RCW.

(2) All bonds and warrants issued under the authority of this chapter shall be legal securities, which may be used by any bank or trust company for deposit with the state treasurer, or any county or city treasurer, as security for deposits, in lieu of a surety bond, under any law relating to deposits of public moneys.

(3) When the commission shall not desire to incur a general indebtedness in the purchase, condemnation and purchase, acquisition, or construction of any such public utility, or addition or betterment thereto, or extension thereof, it shall have the power to create a special fund or funds for the sole purpose of defraying the cost of such public utility, or addition or betterment thereto, or extension thereof, into which special fund or funds it may obligate and bind the district to set aside and pay a fixed proportion of the gross revenues of such public utility, or any fixed amount out of, and not exceeding a fixed proportion of, such revenues, or a fixed amount without regard to any fixed proportion, and to issue and sell revenue bonds or warrants bearing interest at such rate or rates, payable semiannually, executed in such manner, and payable at such times and places as the commission shall determine, but such bonds or warrants and the interest thereon, shall be payable only out of such special fund or funds. In creating any such special fund or funds, the commission shall have due regard to the cost of operation and maintenance of the plant or system as constructed or added to, and to any proportion or part of the revenues previously pledged as a fund for the payment of bonds or warrants, and shall not set aside into such special fund or funds a greater amount or proportion of the revenues and proceeds than, in its judgment, will be available over and above such cost of maintenance and operation and the amount or proportion, if any, of the revenues so previously pledged. Any such bonds or warrants, and interest thereon, issued against any such fund, as herein provided, shall be a valid claim of the owner thereof only as against the said special fund and its fixed proportion or amount of the revenue pledged to such fund, and shall not constitute an indebtedness of such district within the meaning of the constitutional provisions and limitations. Each such bond or warrant shall state on its face that it is payable from a special fund, naming such fund and the resolution creating it. Said bonds and warrants shall be sold in such manner as the commission shall deem for the best interests of the district. The commission may provide in any contract for the construction and acquisition of a proposed improvement or utility that payment therefor shall be made only in such bonds or warrants at the par value thereof. In all other respects, the issuance of such utility

bonds or warrants and payment therefor shall be governed by the public utility laws for cities and towns. The revenue or utility bonds or 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.

(4) Notwithstanding subsection (3) of this section, any of such revenue bonds and revenue warrants may be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 45; 1983 c 167 § 146; 1971 c 12 § 1. Prior: 1970 ex.s. c 56 § 77; 1970 ex.s. c 42 § 33; 1969 ex.s. c 232 § 14; 1931 c 1 § 7; RRS § 11611. Formerly RCW 54.24.130 through 54.24.160.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

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.

Municipal utilities: Chapter 35.92 RCW.

Chapter 54.52

VOLUNTARY CONTRIBUTIONS TO ASSIST LOW-INCOME CUSTOMERS

Sections

54.52.010	Voluntary contributions to assist low-income residential customers—Administration.
54.52.020	Disbursal of contributions—Quarterly report.
54.52.030	Contributions not considered commingling of funds.

54.52.010 Voluntary contributions to assist low-income residential customers—Administration. A public utility district may include along with, or as part of its regular customer billings, a request for voluntary contributions to assist qualified low-income residential customers of the district in paying their electricity bills. All funds received by the district in response to such requests shall be transmitted to the grantee of the *planning and community affairs agency which administers federally funded energy assistance programs for the state in the district's service area or to a charitable organization within the district's service area. All such funds shall be used solely to supplement assistance to low-income residential customers of the district in paying their electricity bills. The grantee or charitable organization shall be responsible to determine which of the district's customers are qualified for low-income assistance and the amount of assistance to be provided to those who are qualified. [1984 c 59 § 1.]

*Reviser's note: "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

54.52.020 Disbursal of contributions—Quarterly report. All assistance provided under this chapter shall be disbursed by the grantee or charitable organization. Where possible the public utility district will be paid on behalf of the customer by the grantee or the charitable organization. When direct vendor payment is not feasible, a check will be issued jointly payable to the customer and the public utility district. The availability of

funds for assistance to a district's low-income customers as a result of voluntary contributions shall not reduce the amount of assistance for which the district's customers are eligible under the federally funded energy assistance programs administered by the grantee of the *planning and community affairs agency within the district's service area. The grantee or charitable organization shall provide the district with a quarterly report on January 15th, April 15th, July 15th, and October 15th which includes information concerning the total amount of funds received from the district, the names of all recipients of assistance from these funds, the amount received by each recipient, and the amount of funds received from the district currently on hand and available for future low-income assistance. [1984 c 59 § 2.]

*Reviser's note: "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

54.52.030 Contributions not considered commingling of funds. Contributions received under a program implemented by a public utility district in compliance with this chapter shall not be considered a commingling of funds. [1984 c 59 § 3.]

in the manner above provided is hereby ratified, confirmed and validated. [1984 c 147 § 6; 1969 c 119 § 1.]

56.08.080 Sale of unnecessary property authorized—Notice. The board of commissioners of a sewer district may sell, at public or private sale, property belonging to the district if the board determines by unanimous vote of the elected members of the board that the property is not and will not be needed for district purposes and if the board gives notice of intention to sell as in this section provided: *Provided*, That no notice of intention is required to sell personal property of less than five hundred dollars in value. If property is sold without notice, such property may not be purchased by a commissioner or an employee of the district, or relatives of commissioners or employees.

The notice of intention to sell shall be published once a week for three consecutive weeks in a newspaper of general circulation in the district. The last publication shall be at least twenty days but not more than thirty days before the date of sale. The notice shall describe the property and state the time and place at which it will be sold or offered for sale, the terms of sale, whether the property is to be sold at public or private sale, and if at public sale the notice shall call for bids, fix the conditions thereof and shall reserve the right to reject any and all bids. [1984 c 172 § 1; 1953 c 51 § 1.]

56.08.090 Sale of unnecessary property authorized—Additional requirements for sale of realty. No real property of the district shall be sold for less than ninety percent of the value thereof as established by a written appraisal made not more than six months prior to the date of sale by three disinterested real estate brokers licensed under the laws of the state or professionally designated real estate appraisers as defined in RCW 74.46.020. The appraisal shall be signed by the appraisers and filed with the secretary of the board of commissioners of the district, who shall keep it at the office of the district open to public inspection. Any notice of intention to sell real property of the district shall recite the appraised value thereof: *Provided*, That there shall be no private sale of real property where the appraised value exceeds the sum of five hundred dollars. [1984 c 103 § 2; 1953 c 51 § 2.]

Title 56

SEWER DISTRICTS

Chapters

- 56.08 Powers—Comprehensive plan.**
- 56.16 Finances.**

Chapter 56.08

POWERS—COMPREHENSIVE PLAN

Sections

- 56.08.015 Change of name—Authorized—Procedure—Validation.
- 56.08.080 Sale of unnecessary property authorized—Notice.
- 56.08.090 Sale of unnecessary property authorized—Additional requirements for sale of realty.

56.08.015 Change of name—Authorized—Procedure—Validation. Any sewer district heretofore or hereafter organized and existing may apply to change its name by filing with the county legislative authority in which was filed the original petition for the organization of the district, a certified copy of a resolution of its board of commissioners adopted by the majority vote of all the members of said board at a regular meeting thereof providing for such change of name. After approval of the new name by the county legislative authority, all proceedings of such district shall be had under such changed name, but all existing obligations and contracts of the district entered into under its former name shall remain outstanding without change and with the validity thereof unimpaired and unaffected by such change of name, and a change of name heretofore made by any existing sewer district in this state, substantially

**Chapter 56.16
FINANCES**

Sections

- 56.16.010 General indebtedness.
- 56.16.030 Additions and betterments.
- 56.16.040 General obligation bonds—Bond retirement property tax levies.
- 56.16.050 Limitation of indebtedness.
- 56.16.115 Refunding bonds.

56.16.010 General indebtedness. The sewer commissioners may submit to the sewer district voters a ballot proposition authorizing the sewer district to incur a general indebtedness payable from annual tax levies to be

made in excess of the constitutional and/or statutory tax limitations for the construction of any part or all of the comprehensive plan for the district. Elections shall be held as provided in RCW 39.36.050. The proposition authorizing both the bond issue and bond retirement levies must be approved by three-fifths of the qualified voters of the said sewer district voting on said proposition, at which election the total number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the sewer district at the last preceding general election. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 46; 1973 1st ex.s. c 195 § 63; 1953 c 250 § 10; 1951 2nd ex.s. c 26 § 1; 1941 c 210 § 14; Rem. Supp. 1941 § 9425–23.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Limitations on municipal corporation indebtedness: State Constitution Art. 8 § 6 (Amendment 27); RCW 35.30.040, 35.37.040.

56.16.030 Additions and betterments. In the same manner as herein provided for the adoption of the general comprehensive plan, and after the adoption of the general comprehensive plan, a plan providing for additions and betterments to the general comprehensive plan, or reorganized district may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of, or addition to the general comprehensive plan. The sewer district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of the additions and betterments in the same way the general indebtedness may be incurred for the construction of the general comprehensive plan as provided in RCW 56.16.010. Upon ratification by the voters of the entire district, of the proposition to incur such indebtedness, the additions and betterments may be carried out by the sewer commissioners to the extent specified or referred to in the proposition to incur such general indebtedness. The sewer district may issue revenue bonds to pay for the construction of the additions and betterments by resolution of the board of sewer commissioners. [1984 c 186 § 47; 1977 ex.s. c 300 § 4; 1973 1st ex.s. c 195 § 64; 1959 c 103 § 6; 1953 c 250 § 12; 1951 2nd ex.s. c 26 § 2; 1951 c 129 § 3; 1945 c 140 § 11; 1941 c 210 § 17; Rem. Supp. 1945 § 9425–26.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—1959 c 103: See note following RCW 56.08.010.

Adoption of general comprehensive plan: RCW 56.08.020.

56.16.040 General obligation bonds—Bond retirement property tax levies. Whenever any such sewer district shall hereafter adopt a plan for a sewer system as herein provided, or any additions and betterments thereto, or whenever any reorganized sewer district shall hereafter adopt a plan for any additions or betterments

thereto, and the qualified voters of any such sewer district or reorganized sewer district shall hereafter authorize both bond retirement property tax levies and a general indebtedness for all the said plan, or any part thereof, or any additions and betterments thereto or for refunding in whole or in part bonds theretofore issued, general obligation bonds for the payment thereof may be issued.

The general obligation bonds shall never be issued to run for a longer period than thirty years from the date of the issue and shall as nearly as practicable be issued for a period which will not exceed the life of the improvement to be acquired by the issue of the bonds.

Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 48; 1983 c 167 § 272 (repealed by 1984 c 186 § 70); 1983 c 167 § 155; 1973 1st ex.s. c 195 § 65; 1970 ex.s. c 56 § 80; 1969 ex.s. c 232 § 85; 1953 c 250 § 13; 1951 2nd ex.s. c 26 § 3; 1945 c 140 § 12; 1941 c 210 § 18; Rem. Supp. 1945 § 9425–27.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Effective dates—1983 c 167: See note following RCW 36.68.520.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

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.

56.16.050 Limitation of indebtedness. Each and every sewer district hereafter to be organized pursuant to this title, or reorganized under chapter 140, Laws of 1945, may contract indebtedness pursuant to the provisions of RCW 56.16.040, but not exceeding in amount, together with existing indebtedness two and one-half percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters voting at said election in such sewer district assent thereto, at which election the total number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast at the last preceding general election. The election shall be held as provided in RCW 39.36.050. All bonds so to be issued shall be subject to the provisions regarding bonds as set out in RCW 56.16.040. [1984 c 186 § 49; 1970 ex.s. c 42 § 34; 1945 c 140 § 15; 1941 c 210 § 42; Rem. Supp. 1945 § 9425–51.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

56.16.115 Refunding bonds. The board of sewer commissioners may by resolution, without submitting the matter to the voters of the district, authorize the issuance of refunding general obligation bonds to refund any outstanding general obligation bonds, or any part thereof, at maturity thereof, or before the maturity thereof, if they are subject to call for prior redemption, or if all of the holders thereof consent thereto. The total cost to the district over the life of the refunding bonds

shall not exceed the total cost, which the district would have incurred but for such refunding, over the remainder of the life of the bonds being refunded. The provisions of RCW 56.16.040 specifying the issuance and sale of general obligation bonds and providing for annual tax levies in excess of the constitutional and/or statutory tax limitations shall apply to the refunding general obligation bonds issued under this title.

The board of sewer commissioners may by resolution provide for the issuance of refunding revenue bonds to refund outstanding general obligation bonds and/or revenue bonds, or any part thereof, at maturity thereof, or before maturity thereof, if they are subject to call for prior redemption, or if all of the holders thereof consent thereto. The total cost to the district over the life of said refunding revenue bonds shall not exceed the total cost, which the district would have incurred but for such refunding, over the remainder of the life of the bonds being refunded. Uncollected assessments originally payable into the revenue bond fund of a refunded revenue bond issue shall be paid into the revenue bond fund of the refunding issue. The provisions of RCW 56.16.060 specifying the form and maturities of revenue bonds shall apply to the refunding revenue bonds issued under this title.

Refunding general obligation bonds or refunding revenue bonds may be exchanged for the bonds being refunded or may be sold in such manner as the sewer commissioners shall deem for the best interest of the sewer district. [1984 c 186 § 50; 1977 ex.s. c 300 § 8; 1973 1st ex.s. c 195 § 66; 1959 c 103 § 12; 1953 c 250 § 16.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—1959 c 103: See note following RCW 56.08.010.

Title 57 WATER DISTRICTS

Chapters

- 57.04 Formation and dissolution.
- 57.08 Powers.
- 57.16 Comprehensive plan—Local improvement districts.
- 57.20 Finances.

Chapter 57.04 FORMATION AND DISSOLUTION

Sections

- 57.04.065 Change of name—Procedure—Effect.

57.04.065 Change of name—Procedure—Effect. Any water district heretofore or hereafter organized and existing may apply to change its name by filing with the county legislative authority in which was filed the original petition for organization of the district, a certified

copy of a resolution of its board of commissioners adopted by majority vote of all of the members of said board at a regular meeting thereof providing for such change of name. After approval of the new name by the county legislative authority, all proceedings for such districts shall be had under such changed name, but all existing obligations and contracts of the district entered into under its former name shall remain outstanding without change and with the validity thereof unimpaired and unaffected by such change of name, and the change of name heretofore made by any existing water district in this state, substantially in the manner above approved is hereby ratified, confirmed, and validated. [1984 c 147 § 7.]

Chapter 57.08 POWERS

Sections

- 57.08.016 Sale of unnecessary property authorized—Additional requirements for sale of realty.

57.08.016 Sale of unnecessary property authorized—Additional requirements for sale of realty. No real property of the district shall be sold for less than ninety percent of the value thereof as established by a written appraisal made not more than six months prior to the date of sale by three disinterested real estate brokers licensed under the laws of the state or professionally designated real estate appraisers as defined in RCW 74.46.020. The appraisal shall be signed by the appraisers and filed with the secretary of the board of commissioners of the district, who shall keep it at the office of the district open to public inspection. Any notice of intention to sell real property of the district shall recite the appraised value thereof: *Provided*, That there shall be no private sale of real property where the appraised value exceeds the sum of five hundred dollars. [1984 c 103 § 3; 1953 c 50 § 2.]

Chapter 57.16 COMPREHENSIVE PLAN—LOCAL IMPROVEMENT DISTRICTS

Sections

- 57.16.020 Vote on general indebtedness.
- 57.16.040 Additions and betterments.

57.16.020 Vote on general indebtedness. The commissioners may submit to the voters of the district at any general or special election, a proposition that the district incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of any part or all of the general comprehensive plan. Elections shall be held as provided in RCW 39.36.050. The proposition authorizing both the bond issue and imposition of excess bond retirement levies shall be adopted by three-fifths of the voters voting thereon, at which election the total

number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the water district at the last preceding general election. Such bonds shall not be issued to run for a period longer than twenty years from the date of the issue. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. When the general comprehensive plan has been adopted the commissioners shall carry it out to the extent specified in the proposition to incur general indebtedness. [1984 c 186 § 51; 1974 ex.s. c 31 § 1. Prior: 1973 1st ex.s. c 195 § 69; 1959 c 108 § 7; 1959 c 18 § 7; prior: 1953 c 251 § 5; 1951 2nd ex.s. c 25 § 1; 1939 c 128 § 2, part; 1937 c 177 § 1, part; 1929 c 114 § 10, part; RRS § 11588, part. Cf. 1913 c 161 § 10, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Limitation on

levies: State Constitution Art. 7 § 2 (Amendments 55 and 59); RCW 84.52.010, 84.52.050 through 84.52.056.

municipal corporation indebtedness: State Constitution Art. 8 § 6 (Amendment 27).

57.16.040 Additions and betterments. In the same manner as provided for the adoption of the original general comprehensive plan, a plan providing for additions and betterments to the original general comprehensive plan may be adopted. Without limiting its generality "additions and betterments" shall include any necessary change in, amendment of or addition to the general comprehensive plan.

The district may incur a general indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations for the construction of the additions and betterments in the same way that general indebtedness may be incurred for the construction of the original general comprehensive plan after submission to the voters of the entire district in the manner the original proposition to incur indebtedness was submitted as provided in RCW 57.16.020. Upon ratification the additions and betterments may be carried out by the commissioners to the extent specified or referred to in the proposition to incur the general indebtedness.

The district may issue revenue bonds to pay for the construction of the additions and the betterments pursuant to resolution of the board of water commissioners. [1984 c 186 § 52; 1977 ex.s. c 299 § 6; 1973 1st ex.s. c 195 § 70; 1959 c 108 § 9; 1959 c 18 § 9. Prior: 1953 c 251 § 7; 1951 2nd ex.s. c 25 § 2; 1951 c 112 § 2; 1939 c 128 § 2, part; 1937 c 177 § 1, part; 1929 c 114 § 10, part; RRS § 11588, part. Cf. 1913 c 161 § 10, part.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 57.20 FINANCES

Sections

57.20.010	General obligation bonds—Term—Issuance— Excess bond retirement levies.
57.20.015	Refunding general obligation bonds.
57.20.100	Annual tax levy.
57.20.120	Additional indebtedness.

57.20.010 General obligation bonds—Term—Issuance—Excess bond retirement levies. When general district indebtedness payable from annual tax levies to be made in excess of the constitutional and/or statutory tax limitations has been authorized, the district may issue its general obligation bonds in payment thereof.

The bonds shall not have terms in excess of twenty years and shall as nearly as practicable be issued for a period which will not exceed the life of the improvement to be acquired by the issuance of the bonds. The bonds shall be issued and sold in accordance with chapter 39.46 RCW. The election at which the voters are presented with a ballot proposition authorizing both the bond issue and imposition of excess bond retirement levies shall be held as provided in RCW 39.36.050.

Whenever the proposition to issue such bonds and impose such excess bond retirement levies has been approved, there shall be levied by the officers or governing body charged with the duty of levying taxes, annual levies in excess of the constitutional and/or statutory tax limitations sufficient to meet the annual or semiannual payments of principal and interest on the bonds upon all taxable property within the district. [1984 c 186 § 53; 1983 c 167 § 162; 1973 1st ex.s. c 195 § 71; 1970 ex.s. c 56 § 83; 1969 ex.s. c 232 § 87; 1953 c 251 § 12; 1951 2nd ex.s. c 25 § 3; 1931 c 72 § 2; 1929 c 114 § 11; RRS § 11589. Cf. 1913 c 161 § 11.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

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.

57.20.015 Refunding general obligation bonds. (1) The board of water commissioners of any water district may by resolution, without submitting the matter to the voters of the district, provide for the issuance of refunding general obligation bonds to refund any outstanding general obligation bonds, or any part thereof, at maturity thereof, or before the maturity thereof if they are subject to call for prior redemption or all of the owners thereof consent thereto.

(2) The total cost to the district over the life of the refunding bonds shall not exceed the total cost to the district which the district would have incurred but for such refunding over the remainder of the life of the bonds to be refunded thereby.

(3) The refunding bonds may be exchanged for the bonds to be refunded thereby, or may be sold in such

manner as the board of water commissioners deems to be for the best interest of the district, and the proceeds of such sale used exclusively for the purpose of paying, retiring, and canceling the bonds to be refunded and interest thereon. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(4) The provisions of RCW 57.20.010, concerning the issuance and sale of general obligation bonds and providing for annual tax levies in excess of the constitutional and/or statutory tax limitations shall apply to the refunding general obligation bonds issued under this section. [1984 c 186 § 54; 1983 c 167 § 163; 1973 1st ex.s. c 195 § 72; 1953 c 251 § 16.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Election to authorize revenue bonds: RCW 57.16.030.

57.20.100 Annual tax levy. A district may, in addition to the levies mentioned in RCW 57.16.020, 57.16.040 and 57.20.010, levy a general tax on all property located in the district each year not to exceed fifty cents per thousand dollars of assessed value against the assessed valuation of the property where such water district maintains a fire department as authorized by RCW 57.16.010 to 57.16.040, inclusive, but such levy shall not be made where any property within such water district lies within the boundaries of any fire protection district created under Title 52 RCW. The taxes so levied shall be certified for collection as other general taxes, and the proceeds, when collected, shall be placed in such water district funds as the commissioners may direct and paid out on warrants issued for water district purposes. [1984 c 230 § 84; 1983 c 3 § 163; 1973 1st ex.s. c 195 § 73; 1951 2nd ex.s. c 25 § 4; 1951 c 62 § 1; 1929 c 114 § 18; RRS § 11595. Cf. 1913 c 161 § 17.]

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Excess tax levies authorized: Chapter 84.52 RCW.

57.20.120 Additional indebtedness. Each and every water district hereafter to be organized pursuant to this title, may contract indebtedness in excess of the amount named in RCW 57.20.110, but not exceeding in amount, together with existing indebtedness, two and one-half percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters voting at said election in such water district assent thereto, at which election the total number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in the water district at the last preceding general election, at an election to be held in said water district in the manner provided by this title and RCW 39.36.050: *Provided*, That all bonds so to be issued shall be subject to the provisions regarding bonds as set out in RCW 57.20.010.

[1984 c 186 § 55; 1970 ex.s. c 42 § 36; 1929 c 114 § 20; RRS § 11597. Cf. 1913 c 161 § 19.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—**Effective date**—1970 ex.s. c 42: See notes following RCW 39.36.015.

Title 58

BOUNDARIES AND PLATS

Chapters

58.17 Plats—Subdivisions—Dedications.

58.22 State base mapping system.

Chapter 58.17

PLATS—SUBDIVISIONS—DEDICATIONS

Sections

58.17.155 Short subdivision adjacent to state highway—Notice to department of transportation.

58.17.270 Repealed.

58.17.155 Short subdivision adjacent to state highway—Notice to department of transportation. Whenever a city, town, or county receives an application for the approval of a short plat of a short subdivision that is located adjacent to the right of way of a state highway, the responsible administrator shall give written notice of the application, including a legal description of the short subdivision and a location map, to the department of transportation. The department shall, within fourteen days after receiving the notice, submit to the responsible administrator who furnished the notice a statement with any information that the department deems to be relevant about the effect of the proposed short subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway and the safety of the users of the state highway. [1984 c 47 § 1.]

58.17.270 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 58.22

STATE BASE MAPPING SYSTEM

Sections

58.22.020 Establishment and maintenance—Standards.

58.22.020 Establishment and maintenance—Standards. The department of natural resources shall establish and maintain a state base mapping system. The standards for the state base mapping system shall be:

(1) A series of fifteen minute United States geological survey quadrangle map separates at a scale of one to 48,000 (one inch equals 4,000 feet) covering the entire state;

(2) A series of seven and one-half minute United States geological survey quadrangle map separates at a scale of one to 24,000 (one inch equals 2,000 feet) for

urban areas; including but not limited to those identified as urban by the state department of transportation for the United States department of transportation.

All features and symbols added to the quadrangle separates shall meet as nearly as is practical national map accuracy standards and specifications as defined by the United States geological survey for their fifteen minute and seven and one-half minute quadrangle map separates.

Each quadrangle shall be revised by the department of natural resources as necessary to reflect current conditions. [1984 c 7 § 367; 1973 1st ex.s. c 159 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 59

LANDLORD AND TENANT

Chapters

59.20 Mobile Home Landlord-Tenant Act.

Chapter 59.20

MOBILE HOME LANDLORD-TENANT ACT

Sections

59.20.060	Rental agreements—Required contents—Exclusions.
59.20.070	Prohibited acts by landlord.
59.20.075	Presumption of reprisal or retaliatory action.
59.20.080	Grounds for termination of tenancy—Notice—Mediation.
59.20.130	Duties of landlord.
59.20.160	Moneys paid as deposit or security for performance by tenant—Written rental agreement to specify terms and conditions for retention by landlord.
59.20.180	Moneys paid as deposit or security for performance by tenant—Statement and notice of basis for retention.
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59.20.060 Rental agreements—Required contents—Exclusions. (1) Any mobile home space tenancy regardless of the term, shall be based upon a written rental agreement, signed by the parties, which shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the

tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state there shall also be designated by name and address a person who resides in the county where the mobile home park is located who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent;

(e) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement;

(f) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged;

(g) A description of the boundaries of a mobile home space sufficient to inform the tenant of the exact location of his space in relation to other tenants' spaces; and

(h) A statement of the current zoning of the land on which the mobile home park is located.

(2) Any rental agreement executed between the landlord and tenant shall not contain any provision:

(a) Which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: *Provided*, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of said vehicle;

(c) Which allows the landlord to alter the due date for rent payment or increase the rent: (i) During the term of the rental agreement if the term is less than one year, or (ii) more frequently than annually if the term is for one year or more: *Provided*, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year: *Provided further*, That a rental agreement for a term exceeding one year may provide for annual increases in rent in specified amounts or by a formula specified in such agreement;

(d) By which the tenant agrees to waive or forego rights or remedies under this chapter;

(e) Allowing the landlord to charge an "entrance fee" or an "exit fee";

(f) Which allows the landlord to charge a fee for guests: *Provided*, That a landlord may establish rules

charging for guests who remain on the premises for more than fifteen days in any sixty-day period;

(g) By which the tenant agrees to waive or forego homestead rights provided by chapter 6.12 RCW. This subsection shall not prohibit such waiver after a default in rent so long as such waiver is in writing signed by the husband and wife or by an unmarried claimant and in consideration of the landlord's agreement not to terminate the tenancy for a period of time specified in the waiver if the landlord would be otherwise entitled to terminate the tenancy under this chapter; or

(h) By which, at the time the rental agreement is entered into, the landlord and tenant agree to the selection of a particular arbitrator. [1984 c 58 § 1; 1981 c 304 § 18; 1979 ex.s. c 186 § 4; 1977 ex.s. c 279 § 6.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1981 c 304: See note following RCW 26.16.030.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.070 Prohibited acts by landlord. A landlord shall not:

(1) Deny any tenant the right to sell such tenant's mobile home within a park or require the removal of the mobile home from the park because of the sale thereof. Requirements for the transfer of the rental agreement are in RCW 59.20.073;

(2) Restrict the tenant's freedom of choice in purchasing goods or services but may reserve the right to approve or disapprove any exterior structural improvements on a mobile home space: *Provided*, That door-to-door solicitation in the mobile home park may be restricted in the rental agreement;

(3) Prohibit meetings by tenants of the mobile home park to discuss mobile home living and affairs, conducted at reasonable times and in an orderly manner on the premises, nor penalize any tenant for participation in such activities;

(4) Evict a tenant, terminate a rental agreement, decline to renew a rental agreement, increase rental or other tenant obligations, decrease services, or modify park rules in retaliation for any of the following actions on the part of a tenant taken in good faith:

(a) Filing a complaint with any state, county, or municipal governmental authority relating to any alleged violation by the landlord of an applicable statute, regulation, or ordinance;

(b) Requesting the landlord to comply with the provision of this chapter or other applicable statute, regulation, or ordinance of the state, county, or municipality;

(c) Filing suit against the landlord for any reason;

(d) Participation or membership in any homeowners association or group;

(5) Charge to any tenant a utility fee in excess of actual utility costs or intentionally cause termination or interruption of any tenant's utility services, including water, heat, electricity, or gas, except when an interruption of a reasonable duration is required to make necessary repairs; or

(6) Remove or exclude a tenant from the premises unless this chapter is complied with or the exclusion or

removal is under an appropriate court order. [1984 c 58 § 2; 1981 c 304 § 19; 1980 c 152 § 5; 1979 ex.s. c 186 § 5; 1977 ex.s. c 279 § 7.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1981 c 304: See note following RCW 26.16.030.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.075 Presumption of reprisal or retaliatory action. Initiation by the landlord of any action listed in RCW 59.20.070(4) within one hundred twenty days after a good faith and lawful act by the tenant or within one hundred twenty days after any inspection or proceeding of a governmental agency resulting from such act, shall create a rebuttable presumption affecting the burden of proof, that the action is a reprisal or retaliatory action against the tenant: *Provided*, That if the court finds that the tenant made a complaint or report to a governmental authority within one hundred twenty days after notice of a proposed increase in rent or other action in good faith by the landlord, there is a rebuttable presumption that the complaint or report was not made in good faith: *Provided further*, That no presumption against the landlord shall arise under this section, with respect to an increase in rent, if the landlord, in a notice to the tenant of increase in rent, specifies reasonable grounds for said increase, which grounds may include a substantial increase in market value due to remedial action under this chapter. [1984 c 58 § 3; 1980 c 152 § 6.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.080 Grounds for termination of tenancy—Notice—Mediation. (1) Except as provided in subsection (2) of this section, the landlord shall not terminate a tenancy, of whatever duration except for one or more of the following reasons:

(a) Substantial violation, or repeated or periodic violations of the rules of the mobile home park as established by the landlord at the inception of the tenancy or as assumed subsequently with the consent of the tenant or for violation of the tenant's duties as provided in RCW 59.20.140. The tenant shall be given written notice to cease the rule violation immediately. The notice shall state that failure to cease the violation of the rule or any subsequent violation of that or any other rule shall result in termination of the tenancy, and that the tenant shall vacate the premises within fifteen days: *Provided*, That for a periodic violation the notice shall also specify that repetition of the same violation shall result in termination: *Provided further*, That in the case of a violation of a "material change" in park rules with respect to pets, tenants with minor children living with them, or recreational facilities, the tenant shall be given written notice under this chapter of a six month period in which to comply or vacate;

(b) Nonpayment of rent or other charges specified in the rental agreement, upon five days written notice to pay rent and/or other charges or to vacate;

(c) Conviction of the tenant of a crime, commission of which threatens the health, safety, or welfare of the other mobile home park tenants. The tenant shall be

given written notice of a fifteen day period in which to vacate;

(d) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobile homes or mobile home living within a reasonable time after the tenant's receipt of notice of such noncompliance from the appropriate governmental agency;

(e) Change of land use of the mobile home park including, but not limited to, conversion to a use other than for mobile homes or conversion of the mobile home park to a mobile home park cooperative or mobile home park subdivision: *Provided*, That the landlord shall give the tenants twelve months' notice in advance of the proposed effective date of such change.

(2) A landlord may terminate any tenancy without cause. Such termination shall be effective twelve months from the date the landlord serves notice of termination upon the tenant or at the end of the current tenancy, whichever is later: *Provided*, That a landlord shall not terminate a tenancy for any reason or basis which is prohibited under RCW 59.20.070 (3) or (4) or is intended to circumvent the provisions of (1)(e) of this section.

(3) Within five days of a notice of eviction as required by subsection (1)(a) or (2) of this section, the landlord and tenant shall submit any dispute, including the decision to terminate the tenancy without cause, to mediation. The parties may agree in writing to mediation by an independent third party or through industry mediation procedures. If the parties cannot agree, then mediation shall be through industry mediation procedures. A duty is imposed upon both parties to participate in the mediation process in good faith for a period of ten days for an eviction under subsection (1)(a) of this section, or for a period of thirty days for an eviction under subsection (2) of this section. It is a defense to an eviction under subsection (1)(a) or (2) of this section that a landlord did not participate in the mediation process in good faith. [1984 c 58 § 4; 1981 c 304 § 21; 1979 ex.s. c 186 § 6; 1977 ex.s. c 279 § 8.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1981 c 304: See note following RCW 26.16.030.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.130 Duties of landlord. It shall be the duty of the landlord to:

(1) Comply with codes, statutes, ordinances, and administrative rules applicable to the mobile home park;

(2) Maintain the common premises and prevent the accumulation of stagnant water and to prevent the detrimental effects of moving water when such condition is not the fault of the tenant;

(3) Keep any shared or common premises reasonably clean, sanitary, and safe from defects to reduce the hazards of fire or accident;

(4) Keep all common premises of the mobile home park, not in the possession of tenants, free of weeds or plant growth noxious and detrimental to the health of the tenants and free from potentially injurious or unsightly objects and condition;

(5) Exterminate or make a reasonable effort to exterminate rodents, vermin, or other pests dangerous to the health and safety of the tenant whenever infestation exists on the common premises or whenever infestation occurs in the interior of a mobile home as a result of infestation existing on the common premises;

(6) Maintain and protect all utilities provided to the mobile home in good working condition. Maintenance responsibility shall be determined at that point where the normal mobile home utilities "hook-ups" connect to those provided by the landlord or utility company;

(7) Respect the privacy of the tenants and shall have no right of entry to a mobile home without the prior written consent of the occupant, except in case of emergency or when the occupant has abandoned the mobile home. Such consent may be revoked in writing by the occupant at any time. The ownership or management shall have a right of entry upon the land upon which a mobile home is situated for maintenance of utilities and protection of the mobile home park at any reasonable time or in an emergency, but not in a manner or at a time which would interfere with the occupant's quiet enjoyment;

(8) Allow tenants freedom of choice in the purchase of goods and services, and not unreasonably restrict access to the mobile home park for such purposes;

(9) Maintain roads within the mobile home park in good condition; and

(10) Notify each tenant within five days after a petition has been filed by the landlord for a change in the zoning of the land where the mobile home park is located and make a description of the change available to the tenant.

A landlord shall not have a duty to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, if the defective condition complained of was caused by the conduct of the tenant, the tenant's family, invitee, or other person acting under the tenant's control, or if a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. [1984 c 58 § 5; 1979 ex.s. c 186 § 8.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

Smoke detection devices required in dwelling units: RCW 48.48.140.

59.20.160 Moneys paid as deposit or security for performance by tenant—Written rental agreement to specify terms and conditions for retention by landlord. If any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a written rental agreement, such rental agreement shall include the terms and conditions under which the deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement. If all or part of the deposit may be withheld to indemnify the landlord for damages to the mobile home space for which the tenant is responsible, the rental agreement shall so specify. It is unlawful to charge or collect a deposit or security for performance if the parties have not

entered into a written rental agreement. [1984 c 58 § 17; 1979 ex.s. c 186 § 11.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.180 Moneys paid as deposit or security for performance by tenant—Statement and notice of basis for retention. Within fourteen days after the termination of the rental agreement and vacation of the mobile home space, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the mobile home space.

The statement shall be delivered to the tenant personally or by mail to the last known address. If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above such landlord shall be liable to the tenant for the full amount of the refund due.

Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible. [1984 c 58 § 11; 1979 ex.s. c 186 § 13.]

Severability—1984 c 58: See note following RCW 59.20.200.

Severability—1979 ex.s. c 186: See note following RCW 59.20.030.

59.20.200 Landlord—Failure to carry out duties—Notice from tenant—Time limits for landlord's remedial action. If at any time during the tenancy the landlord fails to carry out the duties required by RCW 59.20.130, the tenant may, in addition to pursuit of remedies otherwise provided the tenant by law, deliver written notice to the landlord, which notice shall specify the property involved, the name of the owner, if known, and the nature of the defective condition. For the purposes of this chapter, a reasonable time for the landlord to commence remedial action after receipt of such notice by the tenant shall be, except where circumstances are beyond the landlord's control;

(1) Not more than twenty-four hours, where the defective condition is imminently hazardous to life;

(2) Not more than forty-eight hours, where the landlord fails to provide water or heat;

(3) Subject to the provisions of subsections (1) and (2) of this section, not more than seven days in the case of a repair under RCW 59.20.130(3);

(4) Not more than thirty days in all other cases.

In each instance the burden shall be on the landlord to see that remedial work under this section is completed with reasonable promptness.

Where circumstances beyond the landlord's control, including the availability of financing, prevent the landlord from complying with the time limitations set forth in this section, the landlord shall endeavor to remedy the

defective condition with all reasonable speed. [1984 c 58 § 6.]

Severability—1984 c 58: "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 58 § 18.]

59.20.210 Landlord—Failure to carry out duties—Repairs effected by tenant—Bids—Notice—Deduction of cost from rent—Limitations. (1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.20.130, and notice of the defect is given to the landlord pursuant to RCW 59.20.200, the tenant may submit to the landlord or the landlord's designated agent by certified mail or in person at least two bids to perform the repairs necessary to correct the defective condition from licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, from responsible persons capable of performing such repairs. Such bids may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.20.200.

(2) If the landlord fails to commence repair of the defective condition within a reasonable time after receipt of notice from the tenant, the tenant may contract with the person submitting the lowest bid to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or the landlord's designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's mobile home space in any calendar year. When, however, the landlord is required to begin remedying the defective condition within thirty days under RCW 59.20.200, the tenant cannot contract for repairs for at least fifteen days following receipt of bids by the landlord. The total costs of repairs deducted by the tenant in any calendar year under this subsection shall not exceed the sum expressed in dollars representing one month's rental of the tenant's mobile home space.

(3) Two or more tenants shall not collectively initiate remedies under this section. Remedial action under this section shall not be initiated for conditions in the design or construction existing in a mobile home park before June 7, 1984.

(4) The provisions of this section shall not:

(a) Create a relationship of employer and employee between landlord and tenant; or

(b) Create liability under the worker's compensation act; or

(c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or rule. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs

in return for cash payment or a reasonable reduction in rent, the agreement to be between the parties, and this agreement does not alter the landlord's obligations under this chapter. [1984 c 58 § 8.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.220 Landlord—Failure to carry out duties—Judgment by court or arbitrator for diminished rental value and repair costs—Enforcement of judgment—Reduction in rent. (1) If a court or an arbitrator determines that:

(a) A landlord has failed to carry out a duty or duties imposed by RCW 59.20.130; and

(b) A reasonable time has passed for the landlord to remedy the defective condition following notice to the landlord under RCW 59.20.200 or such other time as may be allotted by the court or arbitrator; the court or arbitrator may determine the diminution in rental value of the property due to the defective condition and shall render judgment against the landlord for the rent paid in excess of such diminished rental value from the time of notice of such defect to the time of decision and any costs of repair done pursuant to *section 4 of this act for which no deduction has been previously made. Such decisions may be enforced as other judgments at law and shall be available to the tenant as a set-off against any existing or subsequent claims of the landlord.

The court or arbitrator may also authorize the tenant to contract to make further corrective repairs. The court or arbitrator shall specify a time period in which the landlord may make such repairs before the tenant may contract for such repairs. Such repairs shall not exceed the sum expressed in dollars representing one month's rental of the tenant's mobile home space in any one calendar year.

(2) The tenant shall not be obligated to pay rent in excess of the diminished rental value of the mobile home space until such defect or defects are corrected by the landlord or until the court or arbitrator determines otherwise. [1984 c 58 § 9.]

*Reviser's note: The reference to "section 4 of this act" (RCW 59.20.080) appears to be erroneous. Section 8 of this act, codified as RCW 59.20.210, was apparently intended.

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.230 Defective condition—Unfeasible to remedy defect—Termination of tenancy. If a court or arbitrator determines a defective condition as described in RCW 59.20.130 to be so substantial that it is unfeasible for the landlord to remedy the defect within the time allotted by RCW 59.20.200, and that the tenant should not remain on the mobile home space in its defective condition, the court or arbitrator may authorize the termination of the tenancy. The court or arbitrator shall set a reasonable time for the tenant to vacate the premises. [1984 c 58 § 10.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.240 Payment of rent condition to exercising remedies. The tenant shall be current in the payment of rent including all utilities which the tenant has agreed in

the rental agreement to pay before exercising any of the remedies accorded the tenant under the provisions of this chapter: *Provided*, That this section shall not be construed as limiting the tenant's civil remedies for negligent or intentional damages: *Provided further*, That this section shall not be construed as limiting the tenant's right in an unlawful detainer proceeding to raise the defense that there is no rent due and owing. [1984 c 58 § 7.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.250 Mediation of disputes by independent third party. The landlord and tenant may agree in writing to submit any dispute arising under this chapter or under the terms, conditions, or performance of the rental agreement to mediation by an independent third party or to settle the dispute through industry mediation procedures. The parties may agree to submit any dispute to mediation before exercising their right to arbitration under RCW 59.20.260. [1984 c 58 § 12.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.260 Arbitration—Authorized—Selection of arbitrator—Procedure. (1) The landlord and tenant may agree in writing to submit a controversy arising under this chapter to arbitration. The agreement shall contain the name of the arbitrator agreed upon by the parties or the process for selecting the arbitrator.

(2) The arbitration shall be administered under this chapter and chapter 7.04 RCW. [1984 c 58 § 13.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.270 Arbitration—Application—Hearings—Decisions. (1) If the landlord and tenant agree to submit the matter to arbitration, the parties shall complete an application for arbitration and deliver it to the selected arbitrator.

(2) The arbitrator shall schedule a hearing to be held no later than ten days following receipt of the application.

(3) Reasonable notice of the hearings shall be given to the parties, who shall appear and be heard either in person, by counsel, or by other representative. Hearings shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Hearings may be public or private. The proceedings may be recorded. Any oral or documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator may administer oaths, issue subpoenas, and require the attendance of witnesses and the production of books, papers, contracts, agreements, and documents deemed by the arbitrator to be material to a just determination of the issues in dispute. If a person refuses to obey a subpoena or refuses to be sworn to testify, or any witness, party, or attorney is guilty of any contempt while in attendance at any hearing held under this section, the arbitrator may invoke the jurisdiction of any district or superior court, and the court shall have jurisdiction to issue an appropriate order. Failure to

obey the order may be punished by the court as contempt.

(4) Within five days after the hearing, the arbitrator shall make a written decision upon the issues presented. A copy of the decision shall be mailed by certified mail or otherwise delivered to the parties or their designated representatives. The decision of the arbitrator shall be final and binding upon all parties.

(5) If a dispute exists affecting more than one tenant in a similar manner, the arbitrator may with the consent of the parties consolidate the cases into a single proceeding.

(6) Decisions of the arbitrator shall be enforced or appealed under chapter 7.04 RCW. [1984 c 58 § 14.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.280 Arbitration—Fee. The administrative fee for this arbitration procedure shall be established by agreement of the parties and the arbitrator and, unless otherwise allocated by the arbitrator, shall be shared equally by the parties. However, upon either party signing an affidavit to the effect that the party is unable to pay the share of the fee, that portion of the fee may be waived or deferred. [1984 c 58 § 15.]

Severability—1984 c 58: See note following RCW 59.20.200.

59.20.290 Arbitration—Completion of arbitration after giving notice. When a party gives notice of intent to arbitrate by giving reasonable notice to the other party, that party shall, at the same time, arrange for arbitration of the grievance in the manner provided for in this chapter. The arbitration shall be completed before the rental due date next occurring after the giving of notice under this section, but in no event shall the arbitrator have less than ten days to complete the arbitration process. [1984 c 58 § 16.]

Severability—1984 c 58: See note following RCW 59.20.200.

Title 60 LIENS

Chapters

- 60.04** Mechanics' and materialmen's liens.
- 60.28** Lien for labor, materials, taxes on public works.

Chapter 60.04

MECHANICS' AND MATERIALMEN'S LIENS

Sections

- 60.04.020 Notice that materialmen's lien may be claimed.
- 60.04.200 Interim or construction financing—Definitions.
- 60.04.210 Interim or construction financing—Notice of lien—Duty of lender to withhold from disbursements—Liabilities of lender and lien claimant.
- 60.04.230 Construction projects—Notice to be posted by prime contractor—Penalty.

60.04.020 Notice that materialmen's lien may be claimed. Every person, firm or corporation furnishing materials or supplies or renting, leasing or otherwise supplying equipment, to be used in the construction, alteration or repair of any mining claim, building, wharf, bridge, ditch, dyke, flume, tunnel, well, fence, machinery, railroad, street railway, wagon road, aqueduct to create hydraulic power, or any other building, or any other structure, or mining claim or stone quarry, shall give to the owner or reputed owner of the property on, upon or about which such materials or supplies or equipment is and/or were used, a notice in writing, which notice shall cover the material, supplies or equipment furnished or leased during the sixty days preceding the giving of such notice as well as all subsequent materials, supplies or equipment furnished or leased, stating in substance and effect that such person, firm or corporation is and/or has furnished materials and supplies, or equipment for use thereon, with the name of the contractor or agent ordering the same, and that a lien may be claimed for all materials and supplies, or equipment furnished by such person, firm or corporation for use thereon, which notice shall be given to the owner or reputed owner by (1) mailing the same by registered or certified mail in an envelope addressed to the owner or reputed owner at his place of residence or reputed residence, or (2) by serving the same personally upon the owner or reputed owner and obtaining evidence of such service in the form of a receipt or other acknowledgment signed by such owner or reputed owner, and (3) if the prime contractor complies with RCW 60.04.230, the notice shall also be given to the prime contractor as defined in RCW 60.04.200(6) by (a) any form of mail requiring a return receipt or (b) by serving the notice personally upon the prime contractor or the prime contractor's representative and obtaining evidence of such service in the form of a receipt or other acknowledgment signed by the prime contractor or the prime contractor's representative: *Provided, however,* That with respect to materials or supplies or equipment used in construction, alteration or repair of any single family residence or garage such notice must be given not later than ten days after the date of the first delivery of such materials or supplies or equipment. No materialmen's lien shall be enforced unless the provisions of this section have been complied with: *Provided,* That in the event the notice required by this section is not given within the time specified by this section, any lien or claim of lien shall be enforceable only for materials and supplies or equipment delivered subsequent to such notice being given to the owner or reputed owner, and such lien or claim of lien shall be secondary to any lien or claim of lien established where such notice was given within the time limits prescribed by this section. [1984 c 202 § 4; 1977 ex.s. c 57 § 1; 1969 ex.s. c 84 § 1; 1965 c 98 § 1; 1959 c 279 § 2; 1959 c 278 § 1; 1957 c 214 § 1; 1911 c 77 § 1; 1909 c 45 § 1; RRS § 1133.]

Effective date—1977 ex.s. c 57: "This 1977 amendatory act shall take effect January 1, 1978." [1977 ex.s. c 57 § 2.]

60.04.200 Interim or construction financing—Definitions. As used in this chapter, the following meanings shall apply:

(1) "Lender" means any person or entity regularly providing interim or construction financing.

(2) "Interim or construction financing" means that portion of money secured by mortgage, deed of trust, or other encumbrance to finance construction of improvements on, or development of, real property, but does not include:

- (a) Funds to acquire real property;
- (b) Funds to pay interest, insurance premiums, lease deposits, taxes, assessments, or prior encumbrances;
- (c) Funds to pay loan, commitment, title, legal, closing, recording or appraisal fees;
- (d) Funds to pay other customary fees; which pursuant to agreement with the owner or borrower are to be paid by the lender from time to time;
- (e) Funds to acquire personal property for which the potential lien claimant may not claim a lien pursuant to chapter 60.04 RCW.

(3) "Owner" means the record holder of the legal or beneficial title to the real property to be improved or developed.

(4) "Potential lien claimant" means any person or entity entitled to assert lien rights pursuant to this chapter and has otherwise complied with the provisions of this chapter and the requirements of chapter 18.27 RCW if required by the provisions thereof.

(5) "Draws" means periodic disbursements of interim or construction financing by a lender.

(6) "Prime contractor" includes all contractors, general contractors, and specialty contractors as defined in RCW 18.27.010 who contract to perform for a property owner and includes property owners or their authorized representatives who are contractors, general contractors, or specialty contractors as defined in RCW 18.27.010 who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year.

(7) "Construction project" means construction work contracted for by a property owner or the owner's authorized representative with a prime contractor on real property controlled by the owner. [1984 c 202 § 1; 1973 1st ex.s. c 47 § 1.]

Severability—1973 1st ex.s. c 47: "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 47 § 4.]

60.04.210 Interim or construction financing—Notice of lien—Duty of lender to withhold from disbursements—Liabilities of lender and lien claimant. Any lender providing interim or construction financing where there is not a payment bond of at least fifty percent of the amount of construction financing shall observe the following procedures:

(1) Draws against construction financing shall be made only after certification of job progress by the general contractor and the owner or his agent in such form as may be prescribed by the lender.

(2) Any potential lien claimant who has not received a payment within five days after the date required by his contract, employee benefit plan agreement, or purchase order may within twenty days thereafter file a notice as provided herein of the sums due and to become due, for which a potential lien claimant may claim a lien under chapter 60.04 RCW.

(3) The notice must be filed in writing with the lender at the office administering the interim or construction financing, with a copy furnished to the owner and appropriate general contractor. The notice shall state in substance and effect that such person, firm, trustee, or corporation is entitled to receive contributions to any type of employee benefit plan, has furnished labor, materials and supplies, or supplied equipment for which right of lien is given by this chapter, with the name of the general contractor, agent or person ordering the same, a common or street address of the real property being improved or developed, or if there be none the legal description of said real property, description of the labor, or material furnished, or equipment leased, or a brief statement describing the nature of the contributions owed to any type of employee benefit plan, the name, business address and telephone number of said lien claimant which notice shall be given by mailing the same by registered or certified mail, return receipt requested.

(4) After the receipt of such notice, the lender shall withhold from the next and subsequent draws such percentage thereof as is equal to that percentage of completion as certified in subsection (1) of this section, which is attributable to the potential lien claimant as of the date of the certification of job progress for the draw in question less contracted retainage. The percentage of completion attributable to the lien claimant shall be calculated from said certification of job progress, and shall be reduced to reflect any sums paid to or withheld for the potential lien claimant. Alternatively, the lender may obtain from the general contractor or borrower a payment bond for the benefit of the potential lien claimant in such sum.

(5) Sums so withheld shall not be disbursed by the lender except by the written agreement of the potential lien claimant, owner and general contractor in such form as may be prescribed by the lender, or the order of a court of competent jurisdiction.

(6) In the event a lender fails to abide by the provisions of subsections (4) or (5) of this section, then the mortgage, deed of trust or other encumbrance securing the lender will be subordinated to the lien of the potential lien claimant to the extent of the interim or construction financing wrongfully disbursed, but in no event in an amount greater than the sums ultimately determined to be due the potential lien claimant by a court of competent jurisdiction, or more than the sum stated in the notice, whichever is less.

(7) Any potential lien claimant shall be liable for any loss, cost or expense, including reasonable attorney fees, to the party injured thereby arising out of any unjust, excessive or premature notice of claim under this section. For purposes of this subsection, "notice of claim"

does not include notice given by a potential lien claimant of the right to claim liens under this chapter where no actual claim is made. [1984 c 202 § 2; 1975 c 34 § 10; 1973 1st ex.s. c 47 § 2.]

Severability—1973 1st ex.s. c 47: See note following RCW 60.04.200.

60.04.230 Construction projects—Notice to be posted by prime contractor—Penalty. (1) For any construction project costing more than five thousand dollars where the primary use of the improvements on the real property is for one or more residences the prime contractor shall post in plain view for the duration of the construction project a legible notice at the construction job site containing the following:

(a) The legal description, the street address if available, and any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number and identification; and

(d) Either:

(i) The name, address, and phone number of the office of the lender administering the interim construction financing; or

(ii) The name and address of the firm that has issued a payment bond on behalf of the prime contractor for the protection of the owner if the bond is for an amount not less than fifty percent of the total amount of the construction project.

(2) For any construction project not subject to subsection (1) of this section costing more than five thousand dollars, the prime contractor shall post in plain view for the duration of the construction project a legible notice at the construction job site containing the following:

(a) The legal description or the street address and any other identification of the construction site by the prime contractor;

(b) The property owner's name, address, and phone number;

(c) The prime contractor's business name, address, phone number, current state contractor registration number and identification.

(3) Failure to comply with this section is a gross misdemeanor. [1984 c 202 § 3.]

Chapter 60.28

LIEN FOR LABOR, MATERIALS, TAXES ON PUBLIC WORKS

Sections

60.28.010 Retained percentage—Labor and material lien created—Bond in lieu of retained funds—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments—Funds of farmers home administration.

60.28.010 Retained percentage—Labor and material lien created—Bond in lieu of retained funds—Termination before completion—Chapter deemed exclusive—Release of ferry contract payments—Funds of farmers home administration. (1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum not to exceed five percent, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: *Provided*, That such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 as now existing and in accordance with any amendments that may hereafter be made thereto: *Provided further*, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body; (a) at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments which would otherwise be subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor: *Provided*, That the contractor may request that retainage be reduced to one hundred percent of the value of the work remaining on the project; and (b) thirty days after completion and acceptance of all contract work other than landscaping, may release and pay in full the amounts retained during the performance of the contract (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of RCW 60.28.020.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: *Provided*, That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed. When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(4) With the consent of the public body the contractor may submit a bond for all or any portion of the amount of funds retained by the public body in a form acceptable to the public body. Such bond and any proceeds therefrom shall be made subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(5) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

(6) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, thirty days after completion and final acceptance of each ferry vessel, the department may release and pay in full the amounts retained in connection with the construction of such vessel subject to the provisions of RCW 60.28.020: *Provided*, That the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on such ferry after a period of thirty days following final acceptance of such ferry; and if such taxes are certified or claims filed, recovery may be had on such bond by the department of revenue and the materialmen and laborers filing claims.

(7) On projects commenced after June 7, 1984, the trust fund established pursuant to subsection (1) of this section may be reserved for the protection of the owner or owners of such public improvements when specifically required by regulations of the farmers home administration for the provision of grant or loan funds administered by that agency. [1984 c 146 § 1; 1982 c 170 § 1; 1981 c 260 § 14. Prior: 1977 ex.s. c 205 § 1; 1977 ex.s. c 166 § 5; 1975 1st ex.s. c 104 § 1; 1970 ex.s. c 38 § 1; 1969 ex.s. c 151 § 1; 1963 c 238 § 1; 1955 c 236 § 1; 1921 c 166 § 1; RRS § 10320.]

Severability—1977 ex.s. c 166: See note following RCW 47.60.650.

Title 61

MORTGAGES, DEEDS OF TRUST, AND TRUST RECEIPTS

Chapters

61.16 Assignment and satisfaction of real estate and chattel mortgages.

Chapter 61.16

ASSIGNMENT AND SATISFACTION OF REAL ESTATE AND CHATTEL MORTGAGES

Sections

61.16.030 Failure to satisfy—Damages—Order.

61.16.030 Failure to satisfy—Damages—Order. If the mortgagee fails to acknowledge satisfaction of the mortgage as provided in RCW 61.16.020 sixty days from the date of such request or demand, he shall forfeit and pay to the mortgagor damages and a reasonable attorneys' fee, to be recovered in any court having competent jurisdiction, and said court, when convinced that said mortgage has been fully satisfied, shall issue an order in writing, directing the auditor to cancel said mortgage, and the auditor shall immediately record the order and cancel the mortgage as directed by the court, upon

the margin of the page upon which the mortgage is recorded, making reference thereupon to the order of the court and to the page where the order is recorded. [1984 c 14 § 1; 1886 p 117 § 2; RRS § 10615.]

Title 63 PERSONAL PROPERTY

Chapters

63.14 Retail installment sales of goods and services.

Chapter 63.14

RETAIL INSTALLMENT SALES OF GOODS AND SERVICES

Sections

63.14.010	Definitions.
63.14.090	Retail installment contracts, retail charge agreements, and lender credit card agreements—Delinquency or collection charges—Attorney's fees, court costs—Other provisions not inconsistent with chapter are permissible.
63.14.120	Retail charge agreements and lender credit card agreements—Information to be furnished by seller.
63.14.125	Lender credit card agreements—Security interests prohibited.
63.14.130	Retail installment contracts, retail charge agreements, and lender credit card agreements—Service charge, composition, other fees and charges prohibited—Maximums.
63.14.140	Retail installment contracts, retail charge agreements, and lender credit card agreements—Insurance.
63.14.150	Retail installment contracts, retail charge agreements, and lender credit card agreements—Agreements by buyer not to assert claim or defense or to submit to suit in another county invalid.
63.14.151	Retail installment contracts, retail charge agreements, and lender credit card agreements—Compliance with disclosure requirements of federal consumer protection act deemed compliance with chapter 63.14 RCW.
63.14.160	Conduct or agreement of buyer does not waive remedies.
63.14.165	Financial institution credit card agreement not subject to chapter 63.14 RCW, but subject to chapter 19.52 RCW.
63.14.167	Lender credit card agreements and financial institution credit card agreements—Credit to account for returned goods or forgiveness of a debit for services—Statement of credit to card issuer—Notice to cardholder.
63.14.180	Noncomplying person barred from recovery of service charge, etc.—Remedy of buyer—Extent of recovery.
63.14.904	Severability—1984 c 280.

63.14.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and

goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(3) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(4) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(5) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(7) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(8) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(9) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting

a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; or (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, or official fees;

(12) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and license fees, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(13) "Official fees" means the amount of the fees prescribed by law for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(14) "Time balance" means the principal balance plus the service charge;

(15) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees;

(16) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(17) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period. [1984 c 280 § 1; 1983 c 158 § 7; 1981 c 77 § 1; 1972 ex.s. c 47 § 1; 1963 c 236 § 1.]

Severability—1983 c 158: See RCW 63.10.900.

Application, saving—**Severability**—1981 c 77: See RCW 63.14.902 and 63.14.903.

Effective date—1972 ex.s. c 47: "This 1972 amendatory act shall take effect on January 1, 1973." [1972 ex.s. c 47 § 5.] This applies to the 1972 ex.s. c 47 amendments to RCW 63.14.010, 63.14.040, 63.14.120 and 63.14.154.

63.14.090 Retail installment contracts, retail charge agreements, and lender credit card agreements—Delinquency or collection charges—Attorney's fees, court costs—Other provisions not inconsistent with chapter are permissible. The holder of any retail installment contract, retail charge agreement, or lender credit card agreement may not collect any delinquency or collection charges, including any attorney's fee and court costs and disbursements, unless the contract, charge agreement, or lender credit card agreement so provides. In such cases, the charges shall be reasonable, and no attorney's fee may be recovered unless the contract, charge agreement, or lender credit card agreement is referred for collection to an attorney not a salaried employee of the holder.

The contract, charge agreement, or lender credit card agreement may contain other provisions not inconsistent with the purposes of this chapter, including but not limited to provisions relating to refinancing, transfer of the buyer's equity, construction permits, and title reports. [1984 c 280 § 2; 1963 c 236 § 9.]

63.14.120 Retail charge agreements and lender credit card agreements—Information to be furnished by seller. (1) At or prior to the time a retail charge agreement or lender credit card agreement is made the seller shall advise the buyer in writing, on the application form or otherwise, or orally that a service charge will be computed on the outstanding balance for each month (which need not be a calendar month) or other regular period agreed upon, the schedule or rate by which the service charge will be computed, and that the buyer may at any time pay his or her total unpaid balance: *Provided*, That if this information is given orally, the seller shall, upon approval of the buyer's credit, deliver to the buyer or mail to the buyer's address, a memorandum setting forth this information.

(2) The seller or holder of a retail charge agreement or lender credit card agreement shall promptly supply the buyer with a statement as of the end of each monthly period (which need not be a calendar month) or other regular period agreed upon, in which there is any unpaid balance thereunder, which statement shall set forth the following:

(a) The unpaid balance under the retail charge agreement or lender credit card agreement at the beginning and at the end of the period;

(b) Unless otherwise furnished by the seller to the buyer by sales slip, memorandum, or otherwise, a description or identification of the goods or services purchased during the period, the sale price, and the date of each purchase;

(c) The payments made by the buyer to the seller and any other credits to the buyer during the period;

(d) The amount, if any, of any service charge for such period; and

(e) A legend to the effect that the buyer may at any time pay his or her total unpaid balance.

(3) Every retail charge agreement shall contain the following notice in ten point bold face type or larger directly above the space reserved in the charge agreement for the signature of the buyer: **NOTICE TO BUYER:**

(a) Do not sign this retail charge agreement before you read it or if any spaces intended for the agreed terms are left blank.

(b) You are entitled to a copy of this charge agreement at the time you sign it.

(c) You may at any time pay off the full unpaid balance under this charge agreement.

(d) You may cancel any purchases made under this charge agreement if the seller or his representative solicited in person such purchase, and you sign an agreement for such purchase, at a place other than the seller's business address shown on the charge agreement, by sending notice of such cancellation by certified mail return receipt requested to the seller at his address shown on the charge agreement, which notice shall be posted not later than midnight of the third day (excluding Sundays and holidays) following your signing of the purchase agreement. If you choose to cancel this purchase, you must return or make available to seller at the place of delivery any merchandise, in its original condition, received by you under this purchase agreement. [1984 c 280 § 3; 1981 c 77 § 4; 1972 ex.s. c 47 § 3; 1969 c 2 § 2 (Initiative Measure No. 245, approved November 5, 1968); 1967 c 234 § 7; 1963 c 236 § 12.]

Application, saving—Severability—1981 c 77: See RCW 63.14.902 and 63.14.903.

63.14.125 Lender credit card agreements—Security interests prohibited. A lender credit card agreement may not contain any provision for a security interest in real or personal property or fixtures of the buyer to secure payment of performance of the buyer's obligation under the lender credit card agreement. [1984 c 280 § 4.]

63.14.130 Retail installment contracts, retail charge agreements, and lender credit card agreements—Service charge, composition, other fees and charges prohibited—Maximums. The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) The service charge, in a retail installment contract, shall not exceed the highest of the following:

(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yields (as published by the Federal Reserve Bank of San Francisco) of the bill rates for twenty-six week treasury bills for the last market auctions conducted during February, May, August, and November of the year prior to the year in which the retail installment contract is executed; or

(b) Ten dollars.

(2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed one and one-half percent per month on the outstanding unpaid balances. If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

(3) A service charge may be computed on the median amount within a range which does not exceed ten dollars and which is a part of a published schedule of consecutive ranges applied to an outstanding balance, provided the median amount is used in computing the service charge for all balances within such range. [1984 c 280 § 5; 1981 c 77 § 5; 1969 c 2 § 3 (Initiative Measure No. 245, approved November 5, 1968); 1967 c 234 § 8; 1963 c 236 § 13.]

Application, saving—Severability—1981 c 77: See RCW 63.14.902 and 63.14.903.

63.14.140 Retail installment contracts, retail charge agreements, and lender credit card agreements—Insurance. If the cost of any insurance is included in the retail installment contract, retail charge agreement, or lender credit card agreement:

(1) The contract or agreement shall state the nature, purpose, term, and amount of such insurance, and in connection with the sale of a motor vehicle, the contract shall state that the insurance coverage ordered under the terms of this contract does not include "bodily injury liability," "public liability," and "property damage liability" coverage, where such coverage is in fact not included;

(2) The contract or agreement shall state whether the insurance is to be procured by the buyer or the seller;

(3) The amount, included for such insurance, shall not exceed the premiums chargeable in accordance with the rate fixed for such insurance by the insurer, except where the amount is less than one dollar;

(4) If the insurance is to be procured by the seller or holder, he shall, within forty-five days after delivery of the goods or furnishing of the services under the contract, deliver, mail or cause to be mailed to the buyer, at his or her address as specified in the contract, a notice thereof or a copy of the policy or policies of insurance or a certificate or certificates of the insurance so procured. [1984 c 280 § 6; 1963 c 236 § 14.]

63.14.150 Retail installment contracts, retail charge agreements, and lender credit card agreements—

Agreements by buyer not to assert claim or defense or to submit to suit in another county invalid. No provision of a retail installment contract, retail charge agreement, or lender credit card agreement is valid by which the buyer agrees not to assert against the seller or against an assignee a claim or defense arising out of the sale, or by which the buyer agrees to submit to suit in a county other than the county where the buyer signed the contract or where the buyer resides or has his principal place of business. [1984 c 280 § 7; 1967 c 234 § 9; 1963 c 236 § 15.]

63.14.151 Retail installment contracts, retail charge agreements, and lender credit card agreements—Compliance with disclosure requirements of federal consumer protection act deemed compliance with chapter 63.14 RCW. Any retail installment contract, retail charge agreement, or lender credit card agreement that complies with the disclosure requirements of Title I of the federal consumer protection act (82 Stat. 146, 15 U.S.C. 1601) which is also known as the truth in lending act, as of the date upon which said retail installment contract, revolving charge agreement, or lender credit card agreement is executed, shall be deemed to comply with the disclosure provisions of chapter 63.14 RCW. [1984 c 280 § 8; 1981 c 77 § 9.]

Application, saving—Severability—1981 c 77: See RCW 63.14.902 and 63.14.903.

63.14.160 Conduct or agreement of buyer does not waive remedies. No act or agreement of the retail buyer before or at the time of the making of a retail installment contract, retail charge agreement, lender credit card agreement, or purchases thereunder shall constitute a valid waiver of any of the provisions of this chapter or of any remedies granted to the buyer by law. [1984 c 280 § 9; 1963 c 236 § 16.]

63.14.165 Financial institution credit card agreement not subject to chapter 63.14 RCW, but subject to chapter 19.52 RCW. A financial institution credit card is a card or device issued under an arrangement pursuant to which the issuing financial institution gives to a card holder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not principally engaged in the business of selling goods.

Except as provided in RCW 63.14.167, a financial institution credit card agreement and credit extended pursuant to it is not subject to the provisions of this chapter but shall be subject to the provisions of chapter 19.52 RCW. [1984 c 280 § 10; 1981 c 77 § 10.]

Application, saving—Severability—1981 c 77: See RCW 63.14.902 and 63.14.903.

63.14.167 Lender credit card agreements and financial institution credit card agreements—Credit to account for returned goods or forgiveness of a debit for services—Statement of credit to card issuer—Notice

to cardholder. (1) Pursuant to a lender credit card or financial institution credit card transaction in which a credit card has been used to obtain credit, the seller is a person other than the card issuer, and the seller accepts or allows a return of goods or forgiveness of a debit for services that were the subject of the sale, credit shall be applied to the obligor's account as provided by this section.

(2) Within seven working days after a transaction in which an obligor becomes entitled to credit, the seller shall transmit a statement to the card issuer through the normal channels established by the card issuer for the transmittal of such statements. The credit card issuer shall credit the obligor's account within three working days following receipt of a credit statement from the seller.

(3) The obligor is not responsible for payment of any service charges resulting from the seller's or card issuer's failure to comply with subsection (2) of this section.

(5) An issuer issuing a lender credit card or financial institution credit card shall mail or deliver a notice of the provisions of this section at least once per calendar year, at intervals of not less than six months nor more than eighteen months, either to all cardholders or to each cardholder entitled to receive a periodic statement for any one billing cycle. The notice shall state that the obligor is not responsible for payment of any service charges resulting from the seller's or card issuer's failure to comply with subsection (2) of this section. [1984 c 280 § 11.]

Reviser's note: Subsection (4) of this section was vetoed by the governor.

63.14.180 Noncomplying person barred from recovery of service charge, etc.—Remedy of buyer—Extent of recovery. Any person who enters into a retail installment contract, charge agreement, or lender credit card agreement that does not comply with the provisions of this chapter or who violates any provision of this chapter except as a result of an accidental or bona fide error shall be barred from the recovery of any service charge, official fees, or any delinquency or collection charge under or in connection with the related retail installment contract or purchases under a retail charge agreement or lender credit card agreement; but such person may nevertheless recover from the buyer an amount equal to the cash price of the goods or services and the cost to such person of any insurance included in the transaction: *Provided*, That if the service charge is in excess of that allowed by RCW 63.14.130, except as the result of an accidental or bona fide error, the buyer shall be entitled to an amount equal to the total of (1) twice the amount of the service charge paid, and (2) the amount of the service charge contracted for and not paid, plus (3) costs and reasonable attorneys' fees. The reduction in the cash price by the application of the above sentence shall be applied to diminish pro rata each future installment of principal amount payable under the terms of the contract or agreement. [1984 c 280 § 12; 1967 c 234 § 10; 1963 c 236 § 18.]

63.14.904 Severability—1984 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. [1984 c 280 § 13.]

Title 64

REAL PROPERTY AND CONVEYANCES

Chapters

- 64.04** Conveyances.
- 64.24** Powers of appointment.
- 64.28** Joint tenancies.

**Chapter 64.04
CONVEYANCES**

Sections

- 64.04.180 Railroad properties as public utility and transportation corridors—Declaration of availability for public use.
- 64.04.190 Public utility and transportation corridors—Defined—Retention of public use character.

64.04.180 Railroad properties as public utility and transportation corridors—Declaration of availability for public use. Railroad properties, including but not limited to rights-of-way, land held in fee and used for railroad operations, bridges, tunnels, and other facilities, are declared to be suitable for public use upon cessation of railroad operations on the properties. It is in the public interest of the state of Washington that such properties retain their character as public utility and transportation corridors, and that they may be made available for public uses including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. [1984 c 143 § 22.]

Severability—1984 c 143: See RCW 81.34.900.

64.04.190 Public utility and transportation corridors—Defined—Retention of public use character.

(1) Public utility and transportation corridors are railroad properties (a) on which railroad operations have ceased; (b) that have been found suitable for public use by an order of the Interstate Commerce Commission of the United States; and (c) that have been acquired by purchase, lease, donation, exchange, or other agreement by the state, one of its political subdivisions, or a public utility.

(2) A public utility and transportation corridor retains its public use character as long as it is owned by a public agency or utility. A public utility and transportation corridor is not subject to reversion, taking by adverse possession, or any similar property interests ripening on the cessation of railroad operations. [1984 c 143 § 23.]

Severability—1984 c 143: See RCW 81.34.900.

**Chapter 64.24
POWERS OF APPOINTMENT**

Sections

- 64.24.010 Recodified as RCW 11.95.010. (Effective January 1, 1985.)
- 64.24.020 Recodified as RCW 11.95.020. (Effective January 1, 1985.)
- 64.24.030 Recodified as RCW 11.95.030. (Effective January 1, 1985.)
- 64.24.040 Recodified as RCW 11.95.040. (Effective January 1, 1985.)
- 64.24.050 Recodified as RCW 11.95.050. (Effective January 1, 1985.)

64.24.010 Recodified as RCW 11.95.010. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

64.24.020 Recodified as RCW 11.95.020. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

64.24.030 Recodified as RCW 11.95.030. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

64.24.040 Recodified as RCW 11.95.040. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

64.24.050 Recodified as RCW 11.95.050. (Effective January 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 64.28
JOINT TENANCIES**

Sections

- 64.28.040 Character of joint tenancy interests held by husband and wife. (Effective January 1, 1985.)

64.28.040 Character of joint tenancy interests held by husband and wife. (Effective January 1, 1985.) Joint tenancy interests held in the names of a husband and wife, whether or not in conjunction with others, are presumed to be their community property, the same as other property held in the name of both husband and wife. Any such interest passes to the survivor of the husband and wife as provided for property held in joint tenancy, but in all other respects the interest is treated as community property. [1984 c 149 § 174.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Title 65
RECORDING, REGISTRATION, AND
LEGAL PUBLICATION

Chapter 66.04
DEFINITIONS

Chapters**65.08 Recording.**

Chapter 65.08
RECORDING

Sections

65.08.060 Terms defined.
65.08.080 Repealed.

65.08.060 Terms defined. (1) The term "real property" as used in RCW 65.08.060 through 65.08.150 includes lands, tenements and hereditaments and chattels real and mortgage liens thereon except a leasehold for a term not exceeding two years.

(2) The term "purchaser" includes every person to whom any estate or interest in real property is conveyed for a valuable consideration and every assignee of a mortgage, lease or other conditional estate.

(3) The term "conveyance" includes every written instrument by which any estate or interest in real property is created, transferred, mortgaged or assigned or by which the title to any real property may be affected, including an instrument in execution of a power, although the power be one of revocation only, and an instrument releasing in whole or in part, postponing or subordinating a mortgage or other lien; except a will, a lease for a term of not exceeding two years, and an instrument granting a power to convey real property as the agent or attorney for the owner of the property. "To convey" is to execute a "conveyance" as defined in this subdivision.

(4) The term "recording officer" means the county auditor of the county. [1984 c 73 § 1; 1927 c 278 § 1; RRS § 10596-1.]

65.08.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 66
ALCOHOLIC BEVERAGE CONTROL

Chapters

66.04 Definitions.
66.12 Exemptions.
66.20 Liquor permits.
66.24 Licenses—Stamp taxes.
66.28 Miscellaneous regulatory provisions.
66.44 Enforcement—Penalties.

Sections

66.04.010 Definitions.

66.04.010 Definitions. In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Beer" means any malt beverage or malt liquor as these terms are defined in this chapter.

(3) "Brewer" means any person engaged in the business of manufacturing beer and malt liquor.

(4) "Board" means the liquor control board, constituted under this title.

(5) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(6) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(7) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(8) "Distiller" means a person engaged in the business of distilling spirits.

(9) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(10) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(11) "Employee" means any person employed by the board, including a vendor, as hereinafter in this section defined.

(12) "Fund" means 'liquor revolving fund.'

(13) "Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board,

with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: *Provided further*, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

(14) "Imprisonment" means confinement in the county jail.

(15) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(16) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(17) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(18) "Package" means any container or receptacle used for holding liquor.

(19) "Permit" means a permit for the purchase of liquor under this title.

(20) "Person" means an individual, copartnership, association, or corporation.

(21) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(22) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(23) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and

the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(24) "Regulations" means regulations made by the board under the powers conferred by this title.

(25) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(26) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state.

(27) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(28) "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding twenty-four percent of alcohol by volume.

(29) "Store" means a state liquor store established under this title.

(30) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(31) "Vendor" means a person employed by the board as a store manager under this title.

(32) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(33) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(34) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume.

(35) "Beer wholesaler" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(36) "Wine wholesaler" means a person who buys wine from a vintner or winery located either within or beyond the boundaries of the state for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent. [1984 c 78 § 5;

1982 c 39 § 1; 1981 1st ex.s. c 5 § 1; 1980 c 140 § 3; 1969 ex.s. c 21 § 13; 1935 c 158 § 1; 1933 ex.s. c 62 § 3; RRS § 7306-3. Formerly RCW 66.04.010 through 66.04.380.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Severability—1982 c 39: "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." [1982 c 39 § 3.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66-98.090 and 66.98.100.

Effective date—1969 ex.s. c 21: "The effective date of this 1969 amendatory act is July 1, 1969." [1969 ex.s. c 21 § 15.]

Chapter 66.12 EXEMPTIONS

Sections

- 66.12.160 Manufacture or sale of confections or food containing liquor.
66.12.170 Obtaining liquor for manufacturing confections or food products.

66.12.160 Manufacture or sale of confections or food containing liquor. Nothing in this title shall apply to or prevent the manufacture or sale of confections or food products containing alcohol or liquor if: (1) The confection or food product does not contain more than one percent of alcohol by weight; and (2) the confection or food product has a label stating: "This product contains liquor and the alcohol content is one percent or less of the weight of the product." Manufacturers of confections or food products are not required to obtain a license under this title. [1984 c 78 § 3.]

Finding and declaration—1984 c 78: "The legislature finds that confectioners operating in the state are at an economic disadvantage due to a continued prohibition on the use of natural alcohol flavor in candies and that other related business entities, such as bakeries and delicatessens, may use natural alcohol flavors in the preparation of food for retail sale. Therefore, the legislature declares that the use of natural alcohol flavorings in an amount not to exceed the limit established in RCW 69.04.240 presents no threat to the public health and safety." [1984 c 78 § 1.]

Severability—1984 c 78: "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 78 § 7.]

66.12.170 Obtaining liquor for manufacturing confections or food products. Nothing in this title shall be construed as limiting the right of any manufacturer of confections or food products from obtaining liquor from any source whatsoever if: (1) It is acquired pursuant to a permit issued under RCW 66.20.010(5); and (2) the applicable taxes imposed by this title are paid. [1984 c 78 § 4.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

[1984 RCW Supp—page 620]

Chapter 66.20 LIQUOR PERMITS

Sections

- 66.20.010 Permits classified—Issuance—Fees.

66.20.010 Permits classified—Issuance—Fees. Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit;

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit;

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit;

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation at prices to be fixed by the board;

(8) Where the application is for a special permit by a manufacturer, importer, wholesaler, or agent thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room

or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a class H licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, wholesaler, or agent thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a class H licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, wholesaler, or agent thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board and any such beer or wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a hotel or similar facility offering from one to eight lodging units and breakfast to travelers and guests. [1984 c 78 § 6; 1984 c 45 § 1; 1983 c 13 § 1; 1982 c 85 § 1; 1975-'76 2nd ex.s. c 62 § 2; 1959 c 111 § 2; 1951 2nd ex.s. c 13 § 1; 1933 ex.s. c 62 § 12; RRS § 7306-12.]

Reviser's note: This section was amended by 1984 c 45 § 1 and by 1984 c 78 § 6, 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 and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Chapter 66.24

LICENSES—STAMP TAXES

Sections

66.24.185	Bonded wine warehouse storage license—Qualifications and requirements—Fee.
66.24.510	Nonprofit organization special occasion license—Class K—Fee.

66.24.185 Bonded wine warehouse storage license—Qualifications and requirements—Fee. (1) There shall be a license for bonded wine warehouses which shall authorize the storage of bottled wine only.

Under this license a licensee may maintain a warehouse for the storage of wine off the premises of a winery.

(2) The board shall adopt similar qualifications for a bonded wine warehouse license as required for obtaining a domestic winery license as specified in RCW 66.24-.010 and 66.24.170. A licensee must be a sole proprietor, a partnership or a corporation. One or more domestic wineries may operate as a partnership, corporation, business co-op or agricultural co-op for the purposes of obtaining a bonded wine warehouse license.

(3) All bottled wine shipped to a bonded wine warehouse from a winery or another bonded wine warehouse shall remain under bond and no tax imposed under RCW 66.24.210 shall be due, unless the wine is removed from bond and shipped to a licensed Washington wine wholesaler. Wine may be removed from a bonded wine warehouse only for the purpose of being (a) exported from the state, (b) shipped to a licensed Washington wine wholesaler, or (c) returned to a winery or bonded wine warehouse.

(4) Warehousing of wine by any person other than (a) a licensed domestic winery or a bonded wine warehouse licensed under the provisions of this section, (b) a licensed Washington wine wholesaler, (c) a licensed Washington wine importer, or (d) the liquor control board, is prohibited.

(5) A license applicant shall hold a federal permit for a bonded wine cellar and post a continuing wine tax bond in the amount of five thousand dollars in a form prescribed by the board prior to the issuance of a bonded wine warehouse license. The fee for this license shall be one hundred dollars per annum.

(6) The board shall adopt rules requiring a bonded wine warehouse to be physically secure, zoned for the intended use and physically separated from any other use.

(7) Every licensee shall submit to the board a monthly report of movement of bottled wines to and from a bonded wine warehouse in a form prescribed by the board. The board may adopt other necessary procedures by which bonded wine warehouses are licensed and regulated. [1984 c 19 § 1.]

66.24.510 Nonprofit organization special occasion license—Class K—Fee. There shall be a spirituous liquor retailer's license to be designated as class K; a special license to a nonprofit organization to sell spirituous liquor as defined in RCW 66.24.410 by the glass, including mixed drinks and cocktails compounded or mixed on the premises only, to their members and guests at special occasions at a specified date and place; fee thirty-five dollars per day. Sale, service, and consumption of spirituous liquor is to be confined to specified premises or designated areas only. Spirituous liquor so sold shall be purchased at a state liquor store or agency without discount at retail prices including all taxes. No more than two such licenses may be issued to any one nonprofit organization during a calendar year. [1984 c 71 § 1; 1981 1st ex.s. c 5 § 47; 1975 1st ex.s. c 173 § 12.]

Severability—Effective date—1981 1st ex.s. c 5: See RCW 66-98.090 and 66.98.100.

Severability—Effective date—1975 1st ex.s. c 173: See notes following RCW 66.08.050.

"Society or organization" and "nonprofit organization" defined for certain purposes: RCW 66.24.375.

Chapter 66.28

MISCELLANEOUS REGULATORY PROVISIONS

Sections

66.28.155 Breweries, wineries, wholesalers, or agents authorized to conduct educational activities on licensed premises of retailer.

66.28.155 Breweries, wineries, wholesalers, or agents authorized to conduct educational activities on licensed premises of retailer. A brewery, winery, wholesaler, or its licensed agent may conduct educational activities or provide product information to the consumer on the licensed premises of a retailer. Information on the subject of wine or beer, including but not limited to, the history, nature, quality, and characteristics of a wine or beer, methods of harvest, production, storage, handling, and distribution of a wine or beer, and the general development of the wine and beer industry may be provided by a brewery, winery, wholesaler, or its licensed agent to the public on the licensed premises of a retailer. The retailer requesting such activity shall attempt to schedule a series of brewery, winery, and wholesaler appearances in an effort to equitably represent the industries. Nothing in this section permits a brewery, winery, wholesaler, or its licensed agent to receive compensation or financial benefit from the educational activities or product information presented on the licensed premises of a retailer. The promotional value of such educational activities or product information shall not be considered advancement of moneys or of moneys' worth within the meaning of RCW 66.28.010. [1984 c 196 § 1.]

Chapter 66.44

ENFORCEMENT—PENALTIES

Sections

66.44.316 Musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, and employees of amusement device companies eighteen years and over permitted to enter and remain upon licensed premises during employment.

66.44.316 Musicians, disc jockeys, sound or lighting technicians, persons performing janitorial services, and employees of amusement device companies eighteen years and over permitted to enter and remain upon licensed premises during employment. It is lawful for:

(1) Professional musicians, professional disc jockeys, or professional sound or lighting technicians actively engaged in support of professional musicians or professional disc jockeys, eighteen years of age and older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the

course of their employment as musicians, disc jockeys, or sound or lighting technicians;

(2) Persons eighteen years of age and older performing janitorial services to enter and remain on premises licensed under the provisions of Title 66 RCW when the premises are closed but only during and in the course of their performance of janitorial services; and

(3) Employees of amusement device companies, which employees are eighteen years of age or older, to enter and to remain in any premises licensed under the provisions of Title 66 RCW, but only during and in the course of their employment for the purpose of installing, maintaining, repairing, or removing an amusement device. For the purposes of this section amusement device means coin-operated video games, pinball machines, juke boxes, or other similar devices.

This section shall not be construed as permitting the sale or distribution of any alcoholic beverages to any person under the age of twenty-one years. [1984 c 136 § 1; 1980 c 22 § 1; 1973 1st ex.s. c 96 § 1.]

Title 67

SPORTS AND RECREATION— CONVENTION FACILITIES

(Formerly: Athletics, Sports and Entertainment)

Chapters

67.08 **Boxing and wrestling.**
67.16 **Horse racing.**
67.28 **Public stadium, convention, performing arts, and visual arts facilities.**
67.32 **Washington state recreation trails system.**
67.38 **Cultural arts, stadium and convention districts.**
67.40 **Convention and trade facilities.**
67.70 **State lottery.**

Chapter 67.08

BOXING AND WRESTLING

Sections

67.08.003 Official bonds—Compensation and travel expenses. (Effective July 1, 1985.)

67.08.003 Official bonds—Compensation and travel expenses. (Effective July 1, 1985.) Before entering upon the duties of his office, each commissioner shall enter into a surety bond, executed by a surety company authorized to do business in this state, payable to the state, and approved by the attorney general, in the penal sum of two thousand dollars conditioned upon the faithful performance of his duties, which bond shall be filed with the secretary of state. Each member of the commission shall be reimbursed for the cost of his bond, be compensated in accordance with RCW 43.03.240, and be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 while in the performance of his duties. [1984 c 287 § 99; 1977 c 9 § 1. Prior: 1975-'76 2nd ex.s. c 48 § 1; 1975-'76 2nd ex.s. c 34 §

153; 1959 c 305 § 1; 1933 c 184 § 2; RRS § 8276-2. Formerly RCW 43.48.020.]

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.

Chapter 67.16 HORSE RACING

Sections

67.16.017 Washington horse racing commission—Compensation and travel expenses. (Effective July 1, 1985.)

67.16.017 Washington horse racing commission—Compensation and travel expenses. (Effective July 1, 1985.) Each member of the Washington horse racing commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 in going to, attending, and returning from meetings of the commission, and travel expenses incurred in the discharge of such duties as may be requested of him by a majority vote of the commission, but in no event shall a commissioner be paid in any one fiscal year in excess of one hundred twenty days, except the chairman of the commission who may be paid for not more than one hundred fifty days. [1984 c 287 § 100; 1975-'76 2nd ex.s. c 34 § 155; 1969 ex.s. c 233 § 2.]

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.

Chapter 67.28

PUBLIC STADIUM, CONVENTION, PERFORMING ARTS, AND VISUAL ARTS FACILITIES

Sections

67.28.150 Issuance of general obligation bonds—Maturity—Methods of payment.

67.28.150 Issuance of general obligation bonds—Maturity—Methods of payment. To carry out the purposes of this chapter any municipality shall have the power to issue general obligation bonds within the limitations now or hereafter prescribed by the laws of this state. Such general obligation bonds shall be authorized, executed, issued and made payable as other general obligation bonds of such municipality: *Provided*, That the governing body of such municipality may provide that such bonds mature in not to exceed forty years from the date of their issue, may provide that such bonds also be made payable from any special taxes provided for in RCW 67.28.180, and may provide that such bonds also be made payable from any otherwise unpledged revenue which may be derived from the ownership or operation of any properties. [1984 c 186 § 56; 1967 c 236 § 8.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Chapter 67.32

WASHINGTON STATE RECREATION TRAILS SYSTEM

Sections

67.32.140 Department of transportation—Participation.

67.32.140 Department of transportation—Participation. The department of transportation shall consider plans for trails along and across all new construction projects, improvement projects, and along or across any existing highways in the state system as deemed desirable by the IAC. [1984 c 7 § 368; 1971 ex.s. c 47 § 5.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1971 ex.s. c 47: See RCW 46.09.900.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.010.

Chapter 67.38

CULTURAL ARTS, STADIUM AND CONVENTION DISTRICTS

Sections

67.38.110 Issuance of general obligation bonds—Maturity—Excess levies.
67.38.130 Cultural arts, stadium and convention district tax levies.

67.38.110 Issuance of general obligation bonds—Maturity—Excess levies. To carry out the purpose of this chapter, any cultural arts, stadium and convention district shall have the power to issue general obligation bonds for capital purposes only, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness equal to three-eighths of one percent of the value of taxable property within such district, as the term "value of taxable property" is defined in RCW 39.36.015. A cultural arts, stadium and convention district is additionally authorized to issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to three-fourths of one percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, and to provide for the retirement thereof by excess levies when the voters approve a ballot proposition providing for both the bond issuance and imposition of such levies at a special election called for that purpose in the manner prescribed by section 6, Article VIII and section 2, Article VII of the Constitution and by RCW 84.52.056. Elections shall be held as provided in RCW 39.36.050. General obligation bonds may not be issued with maturities in excess of forty years. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 57; 1983 c 167 § 169; 1982 1st ex.s. c 22 § 11.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

67.38.130 Cultural arts, stadium and convention district tax levies. The governing body of a cultural arts,

stadium and convention district may levy or cause to levy the following ad valorem taxes:

(1) Regular ad valorem property tax levies in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the electors thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percentum of the total votes cast in such taxing district at the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition when the number of electors voting yes on the proposition exceeds forty percentum of the total votes cast in such taxing district in the last preceding general election. Ballot propositions shall conform with RCW 29.30.111.

In the event a cultural arts, stadium and convention district is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the one percent limitation provided for in Article VII, section 2, of our state Constitution result in taxes in excess of the limitation provided for in RCW 84.52.043, the cultural arts, stadium and convention district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced: *Provided*, That no cultural arts, stadium, and convention district may pledge anticipated revenues derived from the property tax herein authorized as security for payments of bonds issued pursuant to subsection (1) of this section: *Provided, further*, That such limitation shall not apply to property taxes approved pursuant to subsections (2) and (3) of this section.

The limitation in RCW 84.55.010 shall apply to levies after the first levy authorized under this section following the approval of such levy by voters pursuant to this section.

(2) An annual excess ad valorem property tax for general district purposes when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.052.

(3) Multi-year excess ad valorem property tax levies used to retire general obligation bond issues when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.056.

The district shall include in its regular property tax levy for each year a sum sufficient to pay the interest and principal on all outstanding general obligation bonds issued without voter approval pursuant to RCW 67.38.110 and may include a sum sufficient to create a sinking fund for the redemption of all outstanding bonds. [1984 c 131 § 4; 1982 1st ex.s. c 22 § 13.]

Purpose—1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Chapter 67.40

CONVENTION AND TRADE FACILITIES

Sections

67.40.020 State convention and trade center—Public nonprofit corporation authorized—Board of directors—Powers and duties.

67.40.020 State convention and trade center—Public nonprofit corporation authorized—Board of directors—Powers and duties. The governor is authorized to form a public nonprofit corporation in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW. The public corporation shall be an instrumentality of the state and have all the powers and be subject to the same restrictions as are permitted or prescribed to private nonprofit corporations, but shall exercise those powers only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The governor shall appoint a board of nine directors for the corporation who 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 corporation may cause a state convention and trade center with an overall size of approximately three hundred thousand square feet to be designed and constructed on a site in the city of Seattle. In acquiring, designing, and constructing the state convention and trade center, the corporation shall consider the recommendations and proposals issued on December 11, 1981, by the joint select committee on the state convention and trade center.

The corporation may acquire and transfer real and personal property by lease, purchase, or sale, and further acquire property by condemnation of privately owned property or rights to and interests in such property pursuant to the procedure in chapter 8.04 RCW, or gift, accept grants, request the financing provided for in RCW 67.40.030, cause the state convention and trade center facilities to be constructed, and do whatever is necessary or appropriate to carry out those purposes. In order to allow the corporation flexibility to secure appropriate insurance by negotiation, the corporation is exempt from RCW 48.30.270. The corporation shall maintain, operate, promote, and manage the state convention and trade center.

In order to allow the corporation flexibility in its personnel policies, the corporation is exempt from chapter 41.06 RCW, chapter 41.05 RCW, RCW 43.01.040 through 43.01.044, chapter 41.04 RCW and chapter 41.40 RCW. [1984 c 210 § 1; 1983 2nd ex.s. c 1 § 2; 1982 c 34 § 2.]

Savings—1984 c 210: "This act shall not terminate or modify any right acquired under a contract of employment in existence prior to March 27, 1984." [1984 c 210 § 7.] "This act" consists of the 1984 amendments to RCW 41.06.070 and 67.40.020 and the enactment of RCW 41.04.800, 41.05.110, 41.40.810, and 43.01.045.

Severability—1984 c 210: "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 210 § 8.]

Chapter 67.70
STATE LOTTERY

Sections

67.70.270 Members of commission—Compensation—Travel expenses. (Effective July 1, 1985.)

67.70.270 Members of commission—Compensation—Travel expenses. (Effective July 1, 1985.) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the director. [1984 c 287 § 101; 1982 2nd ex.s. c 7 § 27.]

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

Title 68
CEMETERIES, MORGUES AND HUMAN
REMAINS

Chapters

- 68.05 Cemetery board.
- 68.08 Human remains.
- 68.16 Cemetery districts.
- 68.24 Cemetery property.
- 68.40 Endowment and nonendowment care.
- 68.44 Endowment care fund.
- 68.46 Prearrangement contracts.

Chapter 68.05
CEMETERIAL BOARD

Sections

68.05.060 Compensation and travel expenses. (Effective July 1, 1985.)

68.05.060 Compensation and travel expenses. (Effective July 1, 1985.) Each member of the board shall be compensated in accordance with RCW 43.03.240 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 102; 1975-'76 2nd ex.s. c 34 § 156; 1953 c 290 § 33.]

Sunset Act application: See note following chapter digest.

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.

Chapter 68.08
HUMAN REMAINS

Sections

- 68.08.135 Individual's remains—Burial on island solely owned by individual, immediate family, or estate.
- 68.08.355 Persons missing thirty days or more—Request for consent to obtain dental records—Submission of dental records to dental identification system—Records to be erased when person found—Availability of files.
- 68.08.360 Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system.

68.08.135 Individual's remains—Burial on island solely owned by individual, immediate family, or estate. The human remains of an individual may be buried on the property of the individual or the individual's immediate family or estate if such property is an island in the sole ownership of the individual, or the individual's immediate family or estate, without obtaining a permit or a variance from any zoning ordinance if in compliance with other applicable state laws. [1984 c 53 § 7.]

68.08.355 Persons missing thirty days or more—Request for consent to obtain dental records—Submission of dental records to dental identification system—Records to be erased when person found—Availability of files. When a person reported missing has not been found within thirty days of the report, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records.

When a person reported missing has not been found within thirty days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the county coroner or medical examiner prior to the preparation of a missing person's report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement authority shall submit a missing person's report and the dental records received under this section to the dental identification system of the state patrol identification and criminal history section on forms supplied by the state patrol for such purpose.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the state patrol. The dental identification system shall then erase all records with respect to such person.

The dental identification system shall maintain a file of information regarding persons reported to it as missing and who have not been reported found. The file shall contain the information referred to in this section and

such other information as the state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons. [1984 c 17 § 18; 1983 1st ex.s. c 16 § 16.]

Severability—Effective date—1983 1st ex.s. c 16: See RCW 43.103.900 and 43.103.901.

68.08.360 Identification of body or human remains by dental examination—Comparison of dental examination records with dental records of dental identification system. If the county coroner or county medical examiner investigating a death is unable to establish the identity of a body or human remains by visual means, fingerprints, or other identifying data, he or she shall have a qualified dentist, as determined by the county coroner or county medical examiner, carry out a dental examination of the body or human remains. If the county coroner or county medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward such dental examination records to the dental identification system of the state patrol identification and criminal history section on forms supplied by the state patrol for such purposes.

The dental identification system shall act as a repository or computer center or both with respect to such dental examination records. It shall compare such dental examination records with dental records filed with it and shall determine which scoring probabilities are the highest for the purposes of identification. It shall then submit such information to the county coroner or county medical examiner who prepared and forwarded the dental examination records. [1984 c 17 § 19; 1983 1st ex.s. c 16 § 17.]

Severability—Effective date—1983 1st ex.s. c 16: See RCW 43.103.900 and 43.103.901.

Chapter 68.16 CEMETERY DISTRICTS

Sections

68.16.110 General powers of district.

68.16.110 General powers of district. Cemetery districts created under this chapter shall be deemed to be municipal corporations within the purview of the Constitution and laws of the state of Washington. They shall constitute bodies corporate and possess all the usual powers of corporations for public purposes. They shall have full authority to carry out the objects of their creation, and to that end are empowered to acquire, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and perform any and all necessary contracts; to appoint and employ necessary officers, agents and employees; to contract indebtedness, to borrow money, and to issue general obligation bonds in accordance with chapter 39.46 RCW; to

levy and enforce the collection of taxes against the lands within the district, and to do any and all lawful acts to effectuate the purposes of this chapter. [1984 c 186 § 58; 1967 c 164 § 6; 1947 c 6 § 11; Rem. Supp. 1947 § 3778–160.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Purpose—Severability—1967 c 164: See notes following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: RCW 4.96.010.

Chapter 68.24 CEMETERY PROPERTY

Sections

68.24.180 Opening of roads, railroads through cemetery—Consent required—Exception.

68.24.180 Opening of roads, railroads through cemetery—Consent required—Exception. After dedication under this title, and as long as the property remains dedicated to cemetery purposes, a railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall not be laid out, through, over, or across any part of it without the consent of the cemetery authority owning and operating it, or of not less than two-thirds of the owners of interment plots. However, so long as the action is commenced prior to March 31, 1961, the department of transportation may condemn for state highway purposes for Primary State Highway No. 14 in the vicinity of Gig Harbor land in any burial ground or cemetery in the following cases: (1) Where no organized or known authority is in charge of any such cemetery, or (2) where the necessary consent cannot be obtained and the court finds that considerations of highway safety necessitate the taking of the land. A judgment entered in the condemnation proceedings shall require that before an entry is made on the land condemned for state highway purposes, the state shall, at its own expense, remove or cause to be removed from the land any bodies buried therein and suitably reinter them elsewhere to the satisfaction of relatives, if they can be found. [1984 c 7 § 369; 1959 c 217 § 1; 1947 c 69 § 1; 1943 c 247 § 69; Rem. Supp. 1947 § 3778–69.]

Reviser's note: This section does not apply to certain cemeteries. See RCW 68.48.070.

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 68.40 ENDOWMENT AND NONENDOWMENT CARE

Sections

68.40.010 Endowment care cemetery defined—Deposit required.

68.40.010 Endowment care cemetery defined—Deposit required. An endowment care cemetery is one which deposits in its endowment care fund not less than the following amounts for plots sold: Ten percent of the gross sales price, with a minimum of ten dollars for each

adult grave; five dollars for each niche; and thirty dollars for each crypt.

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price. If a contract for crypts, niches, or graves is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the endowment care fund ten percent of the gross sales price with a minimum of ten dollars for each adult grave, five dollars for each niche, and thirty dollars for each crypt within twenty days of receipt of payment of the proceeds from such sale or loan.

Any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of twenty-five thousand dollars before disposing of any plot or making any sale thereof: *Provided*, That the requirement of an additional deposit of twenty-five thousand dollars shall not apply to any cemetery in existence on January 1, 1961, having an area not exceeding ten acres. [1984 c 53 § 1; 1961 c 133 § 2; 1953 c 290 § 4; 1943 c 247 § 118; Rem. Supp. 1943 § 3778-118.]

Chapter 68.44
ENDOWMENT CARE FUND

Sections	
68.44.030	Authorized investments. (Effective January 1, 1985.)
68.44.060	Unauthorized loans—Penalty.

68.44.030 Authorized investments. (Effective January 1, 1985.) Endowment care funds shall be kept invested in accordance with the provisions of RCW 11.100.020 subject to the following restrictions:

(1) No officer or director of the cemetery authority, trustee of the endowment care or special care funds, or spouse, sibling, parent, grandparent, or issue of such officer, director, or trustee, shall borrow any of such funds for himself, directly or indirectly.

(2) No funds shall be loaned to the cemetery authority, its agents, or employees, or to any corporation, partnership, or other business entity in which the cemetery authority has any ownership interest.

(3) No funds shall be invested with persons or business entities operating in a business field directly related to cemeteries, including, but not limited to, mortuaries, monument production and sales, florists, and rental of funeral facilities.

(4) Notwithstanding any other provisions contained in this section, funds may be invested in any commercial bank, mutual savings bank, or savings and loan association duly chartered and operating under the laws of the United States or statutes of the state of Washington. [1984 c 149 § 175; 1979 c 21 § 19; 1953 c 290 § 13; 1943 c 247 § 127; Rem. Supp. 1943 § 3778-127.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

68.44.060 Unauthorized loans—Penalty. Every director or officer authorizing or consenting to a loan, and

the person who receives a loan, in violation of RCW 68.44.030 are severally guilty of a class C felony punishable under chapter 9A.20 RCW. [1984 c 53 § 2; 1943 c 247 § 133; Rem. Supp. 1943 § 3778-133.]

Chapter 68.46
PREARRANGEMENT CONTRACTS

Sections	
68.46.030	Prearrangement trust funds—Deposits—Bond requirements.
68.46.055	Cemetery authority may not enter into certain retail contracts which require or permit authority to furnish merchandise, services, etc., at future date—Exclusion of transactions under chapter 63.14 RCW—Prearrangement contracts—Duty of cemetery authority upon death of purchaser or owner.
68.46.060	Termination of contract by purchaser or beneficiary.
68.46.100	Information to be furnished purchaser in contract—Information to be furnished purchaser of unconstructed crypts or niches or undeveloped graves.
68.46.210	Violation—Penalty—Unfair practice—Other laws applicable.

68.46.030 Prearrangement trust funds—Deposits—Bond requirements. (1) A cemetery authority shall deposit in its prearrangement trust account a percentage of all funds collected in payment of each prearrangement contract equal to the greater of:

(a) Fifty percent of the contract price; or

(b) The percentage which the total of the wholesale cost of merchandise and the direct cost of services to be provided pursuant to the contract is of the total contract price.

(2) Any cemetery authority which does not file and maintain with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund fifty percent, or greater percentage as determined under subsection (1) of this section, of all moneys received in payment of each prearrangement contract, excluding sales tax and endowment care if such charge is made.

(3) Any cemetery authority which files and maintains with the board a bond as provided in subsection (4) of this section shall deposit in its prearrangement trust fund each payment as made on the last fifty percent, or greater percentage as determined under subsection (1) of this section, of each prearrangement contract, excluding sales tax and endowment care, if such charge is made.

(4) Each cemetery authority electing to make payments to its prearrangement trust fund pursuant to subsection (3) of this section shall file and maintain with the board a bond, issued by a surety company authorized to do business in the state, in the amount by which the cemetery authority's contingent liability for refunds pursuant to RCW 68.46.060 exceeds the amount deposited in its prearrangement trust fund. The bond shall run to the state and shall be conditioned that it is for the use and benefit of any person requesting a refund pursuant to RCW 68.46.060 if the cemetery authority does not promptly pay to said person the refund due pursuant to RCW 68.46.060. In addition to any other remedy, every

person not promptly receiving the refund due pursuant to RCW 68.46.060 may sue the surety for the refund. The liability of the surety shall not exceed the amount of the bond. Termination or cancellation shall not be effective unless notice is delivered by the surety to the board at least thirty days prior to the date of termination or cancellation. The board shall immediately notify the cemetery authority affected by the termination or cancellation by certified mail, return receipt requested. The cemetery authority shall thereupon obtain another bond or make such other arrangement as may be satisfactory to the board to assure its ability to make refunds pursuant to RCW 68.46.060.

(5) Deposits to the prearrangement trust fund shall be made not later than the twentieth day of each month following receipt of each payment required to be deposited. If a prearrangement contract is sold, pledged, or otherwise encumbered as security for a loan by the cemetery authority, the cemetery authority shall pay into the prearrangement trust fund fifty percent of the total sale price of the prearrangement contract within twenty days of receipt of payment of the proceeds from the sale or loan.

(6) Any failure to fund a prearrangement contract as required by this section shall be grounds for revocation of the cemetery authority's prearrangement sales license. [1984 c 53 § 3; 1979 c 21 § 24; 1973 1st ex.s. c 68 § 3.]

68.46.055 Cemetery authority may not enter into certain retail contracts which require or permit authority to furnish merchandise, services, etc., at future date—Exclusion of transactions under chapter 63.14 RCW—Prearrangement contracts—Duty of cemetery authority upon death of purchaser or owner. (1) No cemetery authority may enter into a retail contract for the purchase of debentures, shares, scrip, bonds, notes, or any instrument or evidence of indebtedness, excluding retail installment sales transactions governed by chapter 63.14 RCW, which directly or indirectly requires or permits the cemetery authority to furnish to the holder at a future date cemetery merchandise or services, or crypts, niches, or graves.

(2) A cemetery authority which enters into prearrangement contracts for the sale of unconstructed crypts or niches or undeveloped graves or which conveys undeveloped graves by gift shall maintain an adequate inventory of constructed crypts or niches and developed graves which in quality are equal to or better than the unconstructed crypts or niches, or undeveloped graves if they were constructed or developed. In the event of the death of a purchaser or owner of an unconstructed crypt or niche or undeveloped grave before the unconstructed crypt or niche or undeveloped grave is constructed or developed the cemetery authority shall provide a constructed crypt or niche or developed grave of equal or better quality without additional cost or charge. If two or more unconstructed crypts or niches or undeveloped graves are conveyed with the intention that the crypts or niches or graves shall be contiguous to each other or maintained together as a group and the death of any one

purchaser or owner in such group occurs before the unconstructed crypts or niches or undeveloped graves are developed, the cemetery authority shall provide additional constructed crypts or niches or developed graves of equal or better quality contiguous to each other or together as a group as originally intended to other purchasers or owners in the group without additional cost or charge. [1984 c 53 § 8.]

68.46.060 Termination of contract by purchaser or beneficiary. Any purchaser or beneficiary or beneficiaries may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall within thirty days refund to such purchaser or beneficiary or beneficiaries fifty percent of the moneys received less the cost of any merchandise delivered or services performed before the termination. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for in this section shall bear the signatures of all of such beneficiaries. [1984 c 53 § 4; 1979 c 21 § 25; 1973 1st ex.s. c 68 § 6.]

68.46.100 Information to be furnished purchaser in contract—Information to be furnished purchaser of unconstructed crypts or niches or undeveloped graves. Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund, which shall not be less than fifty percent of the cash purchase price of the merchandise and services in the contract and shall not include charges for endowment care when included in the purchase price.

Every prearrangement contract for the sale of unconstructed crypts or niches or undeveloped graves and every conveyance instrument shall contain language which informs the purchaser that if the purchaser dies before the unconstructed crypt or niche or undeveloped grave is constructed or developed the cemetery authority must provide, without additional cost or charge, a constructed crypt or niche or developed grave of equal or better quality than the unconstructed crypt or niche or undeveloped grave would have been if it were constructed or developed. [1984 c 53 § 5; 1973 1st ex.s. c 68 § 10.]

68.46.210 Violation—Penalty—Unfair practice—Other laws applicable. Any person who violates or aids or abets any person in the violation of any of the provisions of this chapter shall be guilty of a class C felony punishable under chapter 9A.20 RCW. A violation shall constitute an unfair practice under chapter 19.86 RCW and shall be grounds for revocation of the certificate of authority under chapter 68.05 RCW or revocation of the prearrangement sales license under this chapter. Retail installment transactions under this chapter shall be governed by chapter 63.14 RCW. The provisions of this chapter shall be cumulative and

nonexclusive and shall not affect any other remedy available at law. [1984 c 53 § 6; 1979 c 21 § 39.]

Title 69

FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

- 69.04** Food, drug, and cosmetic act.
69.41 Legend drugs—Prescription drugs.
69.50 Uniform controlled substances act.

Chapter 69.04

FOOD, DRUG, AND COSMETIC ACT

Sections

69.04.240 Confectionery—Adulteration.

69.04.240 Confectionery—Adulteration. A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, natural gum, and pectin: *Provided*, That this section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances. [1984 c 78 § 2; 1945 c 257 § 42; Rem. Supp. 1945 § 6163–91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.]

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

Chapter 69.41

LEGEND DRUGS—PRESCRIPTION DRUGS

Sections

69.41.010 Definitions.

69.41.010 Definitions. As used in this chapter:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or
 (b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(4) "Dispenser" means a practitioner who dispenses.
 (5) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(6) "Distributor" means a person who distributes.

(7) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(8) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(9) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(10) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, an osteopathic physician's assistant under chapter 18.57A RCW, or a physician's assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state, or province of Canada, which shares a common border with the state of Washington. [1984 c 153 § 17; 1980 c 71 § 1; 1979 ex.s. c 139 § 1; 1973 1st ex.s. c 186 § 1.]

Chapter 69.50

UNIFORM CONTROLLED SUBSTANCES ACT

Sections

69.50.101 Definitions.
 69.50.311 Triplicate prescription form program—Compliance by health care practitioners.
 69.50.413 Health care practitioners—Suspension of license for violation of chapter.
 69.50.505 Seizure and forfeiture. (Effective July 1, 1985.)

69.50.101 Definitions. As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) a practitioner, or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(g) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(h) "Dispenser" means a practitioner who dispenses.

(i) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(j) "Distributor" means a person who distributes.

(k) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(l) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(m) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(n) "Marihuana" means all parts of the plant of the genus *Cannabis* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(o) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(p) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(q) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

(r) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(s) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(t) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a chiroprapist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state which shares a common border with the state of Washington.

(u) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(v) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(w) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(x) "Board" means the state board of pharmacy.

(y) "Executive officer" means the executive officer of the state board of pharmacy. [1984 c 153 § 18; 1980 c 71 § 2; 1973 2nd ex.s. c 38 § 1; 1971 ex.s. c 308 § 69.50.101.]

Severability—1973 2nd ex.s. c 38: "If any of the provisions of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the amendatory act, or the application of the provision to other persons or circumstances, or the act prior to its amendment is not affected." [1973 2nd ex.s. c 38 § 3.]

69.50.311 Triplicate prescription form program—Compliance by health care practitioners. Any licensed health care practitioner with prescription or dispensing authority shall, as a condition of licensure and as directed by the practitioner's disciplinary board, consent to the requirement, if imposed, of complying with a triplicate prescription form program as may be established by rule by the department of licensing. [1984 c 153 § 20.]

69.50.413 Health care practitioners—Suspension of license for violation of chapter. The license of any licensed health care practitioner shall be suspended for any violation of this chapter. The suspension shall run concurrently with, and not less than, the term of the sentence for the violation. [1984 c 153 § 21.]

69.50.505 Seizure and forfeiture. (Effective July 1, 1985.) (a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(d);

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter the conveyance may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter;

(6) All drug paraphernalia; and

(7) All moneys, negotiable instruments, securities, or other intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter: *Provided*, That no property may be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was

committed or omitted without the owner's knowledge or consent.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) or (a)(7) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be

upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) or (a)(7) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) or (a)(7) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds and all moneys forfeited under this title shall be used for payment of all proper expenses of the investigation leading to the seizure, including any money delivered to the subject of the investigation by the law enforcement agency, and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, actual costs of the prosecuting or city attorney, and court costs. Fifty percent of the money remaining after payment of such expenses shall be deposited in the general fund of the state, county, and/or city of the seizing law enforcement agency, and fifty percent shall be remitted to the state treasurer for deposit in the public safety and education account established in RCW 43.08.250;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants. [1984 c 258 § 333; 1983 c 2 § 15. Prior: 1982 c 189 § 6; 1982 c 171 § 1; prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

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.
Severability—1983 c 2: See note following RCW 18.71.030.
Effective date—1982 c 189: See note following RCW 34.12.020.
Severability—**Effective date**—1982 c 171: See RCW 69.52.900 and 69.52.901.
Severability—1981 c 48: See note following RCW 69.50.102.

Title 70

PUBLIC HEALTH AND SAFETY

Chapters

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- 70.08 Combined city-county health departments.
- 70.37 Health care facilities.
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Chapter 70.05

LOCAL HEALTH DEPARTMENTS, BOARDS, OFFICERS—REGULATIONS

Sections

- 70.05.040 Local board of health—Chairman—Administrative officer—Vacancies.
- 70.05.045 Administrative officer—Responsibilities.
- 70.05.050 Local health officer—Appointment—Term—Employment of personnel—Salary and expenses.
- 70.05.060 Powers and duties of local board of health.
- 70.05.070 Local health officer—Powers and duties.
- 70.05.120 Violations—Remedies—Penalties.
- 70.05.132 Expenses of state or county in enforcing health laws and regulations—Payment by city or town—Procedure on failure to pay.

70.05.040 Local board of health—Chairman—Administrative officer—Vacancies. The local board of health shall elect a chairman and may appoint an administrative officer. A local health officer shall be appointed pursuant to RCW 70.05.050. Vacancies on the local board of health shall be filled by appointment within thirty days and made in the same manner as was the original appointment. At the first meeting of the local board of health, the members shall elect a chairman

to serve for a period of one year. In home rule charter counties that have a local board of health established under RCW 70.05.050, the administrative officer may be appointed by the official designated under the county's charter. [1984 c 25 § 1; 1983 1st ex.s. c 39 § 1; 1967 ex.s. c 51 § 4.]

70.05.045 Administrative officer—Responsibilities.

The administrative officer shall act as executive secretary and administrative officer for the local board of health, and shall be responsible for administering the operations of the board including such other administrative duties required by the local health board, except for duties assigned to the health officer as enumerated in RCW 70.05.070 and other applicable state law. [1984 c 25 § 2.]

70.05.050 Local health officer—Appointment—Term—Employment of personnel—Salary and expenses. Each local board of health, other than boards which are established under RCW 70.05.030 and which are located in counties having home rule charters, shall appoint a local health officer. In home rule charter counties which have a local board of health established under RCW 70.05.030, the local health officer shall be appointed by the official designated under the provisions of the county's charter.

The local health officer shall be an experienced physician licensed to practice medicine and surgery or osteopathy and surgery in this state and who is qualified or provisionally qualified in accordance with the standards prescribed in RCW 70.05.051 through 70.05.055 to hold the office of local health officer. No term of office shall be established for the local health officer but he shall not be removed until after notice is given him, and an opportunity for a hearing before the board or official responsible for his appointment under this section as to the reason for his removal. He shall act as executive secretary to, and administrative officer for the local board of health and shall also be empowered to employ such technical and other personnel as approved by the local board of health except where the local board of health has appointed an administrative officer under RCW 70.05.040. The local health officer shall be paid such salary and allowed such expenses as shall be determined by the local board of health. [1984 c 25 § 5; 1983 1st ex.s. c 39 § 2; 1969 ex.s. c 114 § 1; 1967 ex.s. c 51 § 9.]

70.05.060 Powers and duties of local board of health. Each local board of health shall have supervision over all matters pertaining to the preservation of the life and health of the people within its jurisdiction and shall:

(1) Enforce through the local health officer or the administrative officer appointed under RCW 70.05.040, if any, the public health statutes of the state and rules and regulations promulgated by the state board of health and the secretary of social and health services;

(2) Supervise the maintenance of all health and sanitary measures for the protection of the public health within its jurisdiction;

(3) Enact such local rules and regulations as are necessary in order to preserve, promote and improve the public health and provide for the enforcement thereof;

(4) Provide for the control and prevention of any dangerous, contagious or infectious disease within the jurisdiction of the local health department;

(5) Provide for the prevention, control and abatement of nuisances detrimental to the public health;

(6) Make such reports to the state board of health through the local health officer or the administrative officer as the state board of health may require; and

(7) Establish fee schedules for issuing or renewing licenses or permits or for such other services as are authorized by the law and the rules and regulations of the state board of health: *Provided*, That such fees for services shall not exceed the actual cost of providing any such services. [1984 c 25 § 6; 1979 c 141 § 79; 1967 ex.s. c 51 § 10.]

70.05.070 Local health officer—Powers and duties. The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040, if any, shall:

(1) Enforce the public health statutes of the state, rules and regulations of the state board of health and the secretary of social and health services, and all local health rules, regulations and ordinances within his jurisdiction;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of social and health services or his authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules and regulations of the state board of health.

(8) Take such measures as he deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department. [1984 c 25 § 7; 1979 c 141 § 80; 1967 ex.s. c 51 § 12.]

70.05.120 Violations—Remedies—Penalties. Any local health officer or administrative officer appointed under RCW 70.05.040, if any, who shall refuse

or neglect to obey or enforce the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or the rules, regulations or orders of the state board of health or who shall refuse or neglect to make prompt and accurate reports to the state board of health, may be removed as local health officer or administrative officer by the state board of health and shall not again be reappointed except with the consent of the state board of health. Any person may complain to the state board of health concerning the failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health, and the state board of health shall, if a preliminary investigation so warrants, call a hearing to determine whether the local health officer or administrative officer is guilty of the alleged acts. Such hearings shall be held pursuant to the provisions of chapter 34.04 RCW, and the rules and regulations of the state board of health adopted thereunder.

Any member of a local board of health who shall violate any of the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or refuse or neglect to obey or enforce any of the rules, regulations or orders of the state board of health made for the prevention, suppression or control of any dangerous contagious or infectious disease or for the protection of the health of the people of this state, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars. Any physician who shall refuse or neglect to report to the proper health officer or administrative officer within twelve hours after first attending any case of contagious or infectious disease or any diseases required by the state board of health to be reported or any case suspicious of being one of such diseases, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars for each case that is not reported.

Any person violating any of the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or violating or refusing or neglecting to obey any of the rules, regulations or orders made for the prevention, suppression and control of dangerous contagious and infectious diseases by the local board of health or local health officer or administrative officer or state board of health, or who shall leave any isolation hospital or quarantined house or place without the consent of the proper health officer or who evades or breaks quarantine or conceals a case of contagious or infectious disease or assists in evading or breaking any quarantine or concealing any case of contagious or infectious disease, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or to imprisonment in the county jail not to exceed ninety days or to both fine and imprisonment. [1984 c 25 § 8; 1967 ex.s. c 51 § 17.]

70.05.132 Expenses of state or county in enforcing health laws and regulations—Payment by city or

town—**Procedure on failure to pay.** All expenses incurred by the state or county in carrying out the provisions of chapters 70.05 and 70.08 RCW, any other public health law, or the rules enacted under such laws by the state board of health shall be paid by the city or town by which or on whose behalf such expenses were incurred. The local health officer or the administrative officer appointed under RCW 70.05.040, if any, shall certify the amount agreed upon or determined by arbitration under RCW 70.05.145 which remains unpaid by each city or town to the fiscal or warrant issuing officer of such city or town.

If the certified expense is not paid by the city or town within thirty days after the end of the fiscal year, the local health officer shall certify the amount due to the auditor of the county in which the city or town is situated, who shall promptly issue a warrant on the county treasurer payable out of the current expense fund of the county, or in accordance with the procedures of the fiscal agent of the combined city-county health department. Any sums paid in this manner shall be reimbursed by the county auditor out of the money due the city or town at the next monthly settlement or settlements of the collection of taxes and until the certified amount is satisfied and shall be transferred to the county's current expense fund or to the fiscal agent of the combined city-county health department. [1984 c 25 § 9; 1983 1st ex.s. c 39 § 6.]

Chapter 70.08

COMBINED CITY-COUNTY HEALTH DEPARTMENTS

Sections
70.08.030 Qualifications.

70.08.030 Qualifications. The director of public health, under this chapter shall meet as a minimum one of the following standards of educational achievement and vocational experience to be qualified for appointment to the office:

(1) Bachelor's degree in business administration, public administration, hospital administration, management, nursing, environmental health, epidemiology, public health, or its equivalent and five years of experience in administration in a community-related field; or

(2) A graduate degree in any of the fields listed in subsection (1) of this section, or in medicine or osteopathy, plus three years of administrative experience in a community-related field.

The director shall not engage in the private practice of the director's profession during such tenure of office and shall not be included in the classified civil service of the said city or the said county.

If the director of public health does not meet the qualifications of a health officer or a physician under RCW 70.05.050, the director shall employ a person so qualified to advise the director on medical or public

health matters. [1984 c 25 § 3; 1949 c 46 § 3; Rem. Supp. 1949 § 6099-32.]

Chapter 70.37

HEALTH CARE FACILITIES

Sections
70.37.030 Washington health care facilities authority established—Members—Chairman—Terms—Quorum—Vacancies—Compensation and travel expenses—Governor's designee to act in governor's absence. (Effective July 1, 1985.)

70.37.030 Washington health care facilities authority established—Members—Chairman—Terms—Quorum—Vacancies—Compensation and travel expenses—Governor's designee to act in governor's absence. (Effective July 1, 1985.) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington health care facilities authority. The authority shall constitute a political subdivision of the state established as an instrumentality exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010, as now or hereafter amended. The authority shall consist of the governor who shall serve as chairman, the lieutenant governor, the insurance commissioner, the chairman of the Washington state hospital commission, and one member of the public who shall be appointed by the governor, subject to confirmation by the senate, on the basis of the member's interest or expertise in health care delivery, for a term expiring on the fourth anniversary of the date of appointment. In the event that any of the offices referred to shall be abolished the resulting vacancy on the authority shall be filled by the officer who shall succeed substantially to the powers and duties thereof. The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel 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 shall constitute a quorum.

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 authority. 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. [1984 c 287 § 103; 1983 c 210 § 1; 1975-'76 2nd ex.s. c 34 § 157; 1974 ex.s. c 147 § 3.]

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.

Chapter 70.38
HEALTH PLANNING AND RESOURCES
DEVELOPMENT

Sections

70.38.105	Health services and facilities requiring certificate of need.
70.38.115	Certificates of need—Procedures—Rules—Criteria for review—Conditional certificates of need—Concurrent review—Review periods—Hearing—Administrative review—Amended certificates of need.

70.38.105 Health services and facilities requiring certificate of need. (1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW 70.39.020;

(c) Any capital expenditure by or on behalf of a health care facility which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;

(d) Any capital expenditure by or on behalf of a health care facility which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), (e), (f), or (g) of this subsection and which is solely for any one or more of the following is not subject to certificate of need review except to the extent required by the federal government as a condition to receipt of federal assistance and does not substantially affect patient charges:

(i) Communications and parking facilities;

(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction which involves physical plant facilities, including administrative and support facilities, which are not or will not be used for the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among facility and service categories of acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

(f) Acquisition of major medical equipment:

(i) If the equipment will be owned by or located in a health care facility; or

(ii) If, after January 1, 1981, the equipment is not to be owned by or located in a health care facility, the department finds consistent with federal regulations the equipment will be used to provide services for hospital inpatients, or the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition;

(g) Any new institutional health services which are offered in or through a health care facility, and which were not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time such services would be offered; and

(h) Any expenditure by or on behalf of a health care facility in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made.

(5) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section. [1984 c 288 § 21; 1983 c 235 § 7; 1982 c 119 § 2; 1980 c 139 § 7; 1979 ex.s. c 161 § 10.]

Severability—1984 c 288: See note following RCW 70.39.010.

Effective date—1980 c 139: See RCW 70.38.916.

Effective dates—1979 ex.s. c 161: See RCW 70.38.915.

70.38.115 Certificates of need—Procedures—Rules—Criteria for review—Conditional certificates of need—Concurrent review—Review periods—Hearing—Administrative review—Amended certificates of need. (1) Certificates of need shall be issued, denied, suspended, or revoked by the designee of the secretary of the department in accord with the provisions of this chapter and rules of the department which establish review procedures and criteria for the certificate of need program.

(2) Criteria for the review of certificate of need applications, except as provided in subsection (3) of this section for health maintenance organizations, shall include but not be limited to consideration of the following:

(a) The relationship of the health services being reviewed to the applicable health plans;

(b) The need that the population served or to be served by such services has for such services;

(c) The availability of less costly or more effective alternative methods of providing such services;

(d) The financial feasibility and the probable impact of the proposal on the cost of and charges for providing health services in the community to be served, including findings and recommendations of the Washington state hospital commission in the case of applications submitted by hospitals. An application by a hospital shall be denied if the state hospital commission does not recommend approval, unless the secretary provides the commission with a written statement setting forth the reason or reasons, and citing the applicable subsection or subsections of this section, for approving an application that the commission has determined to be not feasible;

(e) In the case of health services to be provided, (i) the availability of alternative uses of project resources for the provision of other health services, (ii) the extent to which such proposed services will be accessible to all residents of the area to be served, and (iii) the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels;

(f) In the case of a construction project, the costs and methods of the proposed construction, including the cost and methods of energy provision, and the probable impact of the construction project reviewed (i) on the cost of providing health services by the person proposing such construction project and (ii) on the cost and charges to the public of providing health services by other persons;

(g) The special needs and circumstances of osteopathic hospitals, nonallopathic services and children's hospitals;

(h) Improvements or innovations in the financing and delivery of health services which foster cost containment and serve to promote quality assurance and cost-effectiveness;

(i) In the case of health services proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;

(j) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past; and

(k) In the case of hospital certificate of need applications, whether the hospital meets or exceeds the regional average level of charity care, as determined by the hospital commission.

(3) A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:

(a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll; and

(b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

A health care facility (or any part thereof) or medical equipment with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.

(4) The decision of the department on a certificate of need application shall be consistent with the state health plan in effect, except in emergency circumstances which pose a threat to the public health. The department in making its final decision may issue a conditional certificate of need if it finds that the project is justified only under specific circumstances. The conditions shall directly relate to the project being reviewed. The conditions may be released if it can be substantiated that the conditions are no longer valid and the release of such conditions would be consistent with the purposes of this chapter.

(5) Criteria adopted for review in accordance with subsection (2) of this section may vary according to the purpose for which the particular review is being conducted or the type of health service reviewed.

(6) The department shall specify information to be required for certificate of need applications. Within fifteen days of receipt of the application, the department shall request additional information considered necessary to the application or start the review process. Applicants may decline to submit requested information through written notice to the department, in which case review starts on the date of receipt of the notice. Applications may be denied or limited because of failure to submit required and necessary information.

(7) Concurrent review is for the purpose of comparative analysis and evaluation of competing or similar projects in order to determine which of the projects may best meet identified needs. Categories of projects subject to concurrent review include at least new health care facilities, new services, and expansion of existing health care facilities. The department shall specify time periods for the submission of applications for certificates of need subject to concurrent review, which shall not exceed ninety days. Review of concurrent applications shall start fifteen days after the conclusion of the time period for submission of applications subject to concurrent review. Concurrent review periods shall be limited to one hundred fifty days, except as provided for in rules adopted by the department authorizing and limiting amendment during the course of the review, or for an unresolved pivotal issue declared by the department.

(8) Review periods for certificate of need applications other than those subject to concurrent review shall be limited to ninety days. Review periods may be extended

up to thirty days if needed by a review agency, and for unresolved pivotal issues the department may extend up to an additional thirty days. A review may be extended in any case if the applicant agrees to the extension.

(9) The department or a designated regional health council shall conduct a public hearing on a certificate of need application if requested unless the review is expedited or subject to emergency review. The department by rule shall specify the period of time within which a public hearing must be requested and requirements related to public notice of the hearing, procedures, recordkeeping and related matters.

(10) Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for administrative review in accordance with chapter 34.04 RCW and a hearing shall be held within one hundred twenty days of a request therefor. An administrative law judge shall review the decision of the secretary's designee and render a proposed decision for consideration by the secretary in accordance with chapter 34.12 RCW or remand the matter to the secretary's designee for further consideration. The secretary's final decision is subject to review by the superior court as provided in chapter 34.04 RCW.

(11) The department may establish procedures and criteria for reconsideration of decisions.

(12) An amended certificate of need shall be required for the following modifications of an approved project:

- (a) A new service;
- (b) An expansion of a service beyond that originally approved;
- (c) An increase in bed capacity;
- (d) A significant reduction in the scope of a project without a commensurate reduction in the cost of the project, or a cost increase (as represented in bids on a construction project or final cost estimates acceptable to the person to whom the certificate of need was issued) if the total of such increases exceeds twelve percent or fifty thousand dollars, whichever is greater, over the maximum capital expenditure approved. The review of reductions or cost increases shall be restricted to the continued conformance of the project with the review criteria pertaining to financial feasibility and cost containment.

(13) An application for a certificate of need for a capital expenditure which is determined by the department to be required to eliminate or prevent imminent safety hazards or correct violations of applicable licensure and accreditation standards shall be approved. [1984 c 288 § 22; 1983 c 235 § 8; 1980 c 139 § 8; 1979 ex.s. c 161 § 11.]

Severability—1984 c 288: See note following RCW 70.39.010.
 Effective date—1980 c 139: See RCW 70.38.916.
 Effective dates—1979 ex.s. c 161: See RCW 70.38.915.

Chapter 70.39

HOSPITAL HEALTH CARE SERVICES—
 HOSPITAL COMMISSION

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70.39.010 Purpose of chapter—Intent of 1984 amendments. The primary purpose of this chapter is to promote the economic delivery of high quality, necessary, and effective health care services to the people by establishing a hospital commission with authority over financial disclosure, budget, prospective rate approval, and other related matters, including authority to develop a hospital reimbursement control system, which will assure all purchasers of health care services that total hospital costs are reasonably related to total services, that costs do not exceed those that are necessary for prudently and reasonably managed hospitals, that hospital rates are reasonably related to aggregate costs, and that such rates are set equitably among all purchasers of these services without undue discrimination.

The legislature finds and declares that rising hospital costs are a vital concern to the people of this state because of the danger which is posed that hospital and health care services are fast becoming out of the economic reach of the majority of our population. It is further declared that health care is a right of the people and one of the primary purposes for which governments

are established, and it is, therefore, essential that an effective cost control program be established. It is the legislative intent, in pursuance of this declared public policy, to provide for uniform measures on a state-wide basis to control hospital rates without the sacrifice of quality of service or reasonable access to necessary health care.

The legislature further finds and declares that: (1) There is an increased need for comprehensive public oversight of the costs of and expenditures for health care services; (2) no one should be denied access to necessary health care because of poverty or unemployment; (3) access to necessary health care in rural areas must be assured; (4) the hospital commission and the public need additional information to make better-informed decisions about health care costs and charges; (5) there is a need to encourage market penetration of alternative health care delivery systems that have internal incentives to control costs and stimulate market competition, and that some regulatory policies have impeded health care cost containment by unduly restricting competition; (6) there is a need for more effective assessment of the impact of technology on the cost and delivery of health care services so that appropriate public policies may be adopted; and (7) the hospital commission should be more representative of a diversity of public interests so that it can more effectively carry out its mission.

It is the intent of the 1984 amendments to this chapter to strengthen certain regulatory policies which have had limited success in containing hospital costs since this chapter was enacted, and to promote constructive competition among health care delivery systems. [1984 c 288 § 1; 1973 1st ex.s. c 5 § 2.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: "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 288 § 27.]

70.39.020 Definitions. As used in this chapter:

(1) "Commission" means the hospital commission of the state of Washington as created by this chapter;

(2) "Consumer" means any person whose occupation is other than the administration of health activities or the providing of health services, 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;

(3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include beds utilized by a comprehensive cancer center for cancer research, or any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination.

(4) "Diagnosis-related groups" is a classification system that groups hospital patients according to principal and secondary diagnosis, presence or absence of a surgical procedure, age, presence or absence of significant

comorbidities or complications, and other relevant criteria, an example of which has been adopted as the basis for prospective payment under the federal medicare program by the social security amendments of 1983, Public Law 98-21.

(5) "Medical technology" means the drugs, devices, and medical or surgical procedures used in the delivery of health care, and the organizational or supportive systems within which such care is provided.

(6) "Technology assessment" means a comprehensive form of policy research that examines the technical, economic, and social consequences of technological applications, including the indirect, unintended, or delayed social or economic impacts. In health care, such analysis must evaluate efficacy and safety as well as efficiency.

(7) "Charity care" means necessary hospital health care rendered to indigent persons, to the extent that the persons are unable to pay for the care or to pay deductibles or co-insurance amounts required by a third-party payer, as determined by the commission.

(8) "Rate" means the maximum revenue which a hospital may receive for each unit of service, as determined by the commission.

(9) "Comprehensive cancer center" means an institution and its research programs as recognized by the National Cancer Institute prior to April 20, 1983.

(10) "Region" means one of the health service areas established pursuant to RCW 70.38.085, except that King county shall be considered a separate region for the purposes of this chapter. [1984 c 288 § 2; 1973 1st ex.s. c 5 § 3.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.030 Hospital commission—Created—Membership. (1) There is hereby created a hospital commission, which shall be a separate and independent commission of the state. The commission shall be composed of nine members appointed by the governor as follows:

(a) Three members representing consumers of health care services, at least one of whom represents the interests of low-income persons;

(b) One member representing private employers;

(c) One member representing labor;

(d) One member representing hospitals, but in cases in which rates for an osteopathic hospital are to be considered, the representative of osteopathic hospitals on the technical advisory committee shall replace the hospital representative on the commission;

(e) One member representing health care professionals licensed under Title 18 RCW;

(f) One member representing commercial health insurers or health care service contractors; and

(g) The secretary of social and health services, representing the interests of the state as a major purchaser of health care services. The secretary may delegate a permanent designee in the secretary's absence.

(2) Except for the members designated in subsection (1) (d) and (e) of this section, members shall not have any fiduciary obligation to any health care facility or

any material financial interest in the provision of health care services. [1984 c 288 § 3; 1973 1st ex.s. c 5 § 4.]

Reviser's note—Sunset Act application: The hospital commission is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.253. RCW 70.39.010, 70.39.020, 70.39.030, 70.39.040, 70.39.050, 70.39.060, 70.39.070, 70.39.080, 70.39.090, 70.39.100, 70.39.110, 70.39.120, 70.39.125, 70.39.130, 70.39.140, 70.39.150, 70.39.160, 70.39.165, 70.39.170, 70.39.180, 70.39.190, 70.39.195, 70.39.200, 70.39.900, and 70.39.910 are scheduled for future repeal under RCW 43.131.254.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.040 Hospital commission—Terms—Vacancies. Except for the secretary of social and health services or the secretary's designee, members of the commission shall serve for four-year terms. Appointments shall require senate confirmation. No member shall serve on the commission for more than two consecutive terms. A vacancy shall be filled by appointment for the remainder of the unexpired term and the initial appointments and vacancies shall not require senate confirmation until the legislature next convenes. Of the three additional members, other than the secretary, appointed after June 7, 1984, two shall initially be appointed for two-year terms and one for a three-year term. [1984 c 288 § 4; 1977 c 36 § 1; 1973 1st ex.s. c 5 § 5.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.050 Hospital commission—Officers—Meetings—Compensation and travel expenses (as amended by 1984 c 287). (Effective July 1, 1985.) The member representing consumers of health care services shall serve as chairman. The commission shall elect from its members a vice-chairman biennially. Meetings of the commission shall be held as frequently as its duties require. The commission shall keep minutes of its meetings and adopt procedures for the governing of its meetings, minutes, and transactions.

Three members shall constitute a quorum, but a vacancy on the commission shall not impair its power to act. No action of the commission shall be effective unless three members concur therein.

The members of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 104; 1973 1st ex.s. c 5 § 6.]

Sunset Act application: See note following RCW 70.39.030.

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

70.39.050 Hospital commission—Officers—Meetings—Expenses (as amended by 1984 c 288). A member representing consumers of health care services and designated by the governor shall serve as chairman. The commission shall elect from its members a vice-chairman biennially. Meetings of the commission shall be held as frequently as its duties require. The commission shall keep minutes of its meetings and adopt procedures for the governing of its meetings, minutes, and transactions.

Five members shall constitute a quorum, but a vacancy on the commission shall not impair its power to act. No action of the commission shall be effective unless five members concur therein.

The members of the commission shall receive no compensation for their service as members but, with the exception of the secretary of social and health services or the secretary's designee, the members shall be reimbursed for their expenses while attending meetings of the commission in the same manner as legislators engaged in interim committee business as in RCW 44.04.120. [1984 c 288 § 5; 1973 1st ex.s. c 5 § 6.]

Reviser's note: RCW 70.39.050 was amended twice during the 1984 regular session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.060 Hospital commission—Exempt staff—Other staff—Services. The commission may employ a full time executive director, a deputy director, an associate director for budget and rate review, an associate director for program planning and research, and a confidential secretary who shall be exempt from the civil service law, chapter 41.06 RCW and who shall perform the duties delegated by the commission. The executive director shall be the chief administrative officer of the commission and shall be subject to its direction.

The commission shall employ such other staff as are necessary to fulfill the responsibilities and duties of the commission, such staff to be subject to the civil service law, chapter 41.06 RCW, and under the supervision of the executive director. In addition, the commission may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise.

Any such contractor or consultant shall be prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility, without specific permission of the commission.

The commission may apply for and receive and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects relating to hospital health care costs. [1984 c 288 § 6; 1977 c 35 § 1; 1973 1st ex.s. c 5 § 7.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.070 Technical advisory committee—Members—Terms—Officers—Meetings—Expenses (as amended by 1984 c 125). In order to assist the commission in carrying out its duties, the governor shall appoint a technical advisory committee, hereinafter referred to as "committee", which shall consist of ten members as follows:

(1) One member who shall be a certified public accountant licensed pursuant to chapter 18.04 RCW and who shall be knowledgeable in the financial affairs of hospitals.

(2) One member who shall be a health care practitioner licensed under the laws of this state and who shall be knowledgeable in hospital administration.

(3) Five members who shall be representative of the interest of investor-owned, district, not-for-profit, osteopathic, and university hospitals.

(4) One member who shall be representative of consumers of health care.

(5) One member who shall be the secretary of social and health services, or his designee, to provide continuing liaison, data and support from those functions of the department which may affect the responsibilities of the commission.

(6) One member of the commission, elected by the commission.

The members shall serve concurrently and shall have four-year terms. Any vacancy shall be filled by appointment by the governor and

an appointee selected to fill such vacancy shall hold office for the balance of the term for which his predecessor was appointed. The committee shall elect from its members a chairman and a vice-chairman to serve concurrently with the chairman. The executive director of the commission shall act as executive secretary to the committee, and the commission shall otherwise offer such staff services and supplies as the committee may require to carry out its responsibilities.

The committee shall meet on call of the chairman of the commission, or on request of a majority of the commission. Members of the committee shall serve without compensation but shall be reimbursed for their expenses in the same manner as members of the commission. [1984 c 125 § 17; 1973 1st ex.s. c 5 § 8.]

Sunset Act application: See note following RCW 70.39.030.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

70.39.070 Technical advisory committee—Members—Terms—Officers—Meetings—Expenses (as amended by 1984 c 288). In order to assist the commission in carrying out its duties, the governor shall appoint a technical advisory committee, hereinafter referred to as "committee", which shall consist of seventeen members as follows:

(1) One member who shall be a certified public accountant licensed pursuant to chapter 18.04 RCW and who shall be knowledgeable in the financial affairs of hospitals.

(2) Two members who shall be health care practitioners, one of whom shall be a physician, licensed under the laws of this state and who shall be knowledgeable in hospital administration.

(3) Six members who shall be representative of the interest of investor-owned, district, not-for-profit, osteopathic, university, and rural hospitals.

(4) One member who shall be representative of consumers of health care.

(5) One member who shall be the secretary of the department of social and health services, or the secretary's designee, to provide continuing liaison, data and support from those functions of the department which may affect the responsibilities of the commission and to represent the department as a purchaser of health care services.

(6) One member who shall be the executive director of the state health coordinating council established under RCW 70.38.055.

(7) One member of the commission, elected by the commission.

(8) One member who shall be representative of private employers.

(9) One member who shall be representative of commercial health insurers registered and doing business in the state under Title 48 RCW.

(10) One member who shall be representative of health care service contractors, as defined in RCW 48.44.010.

(11) One member who shall be representative of health maintenance organizations, as defined in RCW 48.46.030.

Except for the members designated in subsections (2), (3), (10), and (11) of this section, members of the committee shall not have any fiduciary obligation to any health care facility or any material financial interest in the provision of health care services.

With the exception of members designated in subsections (5) and (6) of this section, the members shall serve concurrently and shall have four-year terms. Any vacancy shall be filled by appointment by the governor and an appointee selected to fill such vacancy shall hold office for the balance of the term for which his predecessor was appointed. The committee shall elect from its members a chairman and a vice-chairman to serve concurrently with the chairman. The executive director of the commission shall act as executive secretary to the committee, and the commission shall otherwise offer such staff services and supplies as the committee may require to carry out its responsibilities.

The committee shall meet on call of the chairman of the commission, or on request of a majority of the commission. Members of the committee shall serve without compensation for their service as members but, except for those designated in subsections (5) and (6) of this section, shall be reimbursed for their expenses in the same manner as members of the commission. [1984 c 288 § 7; 1973 1st ex.s. c 5 § 8.]

Reviser's note: RCW 70.39.070 was amended twice during the 1984 regular session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at any session of the same legislature, see RCW 1.12.025.

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.080 Technical advisory committee—Duties. The committee shall have the duty upon the request of the commission to consult with and make recommendations to the commission:

(1) On matters of public policy related to the delivery of health care services;

(2) On rules and regulations proposed by the commission to implement this chapter;

(3) On analyses and studies of hospital health care costs and related matters which may be undertaken by the commission;

(4) On any issue related to medical technology or technology assessment in the area of health care; and

(5) On such other matters as the commission may refer. [1984 c 288 § 8; 1973 1st ex.s. c 5 § 9.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.090 Hospital commission—Subcommittees. To further the purposes of this chapter, the commission may create committees from its membership, and may create such ad hoc advisory committees in specialized fields, related to the functions of hospitals, the delivery of health care services, economic issues concerning health care, technology assessment, and such other subjects as it deems necessary, to supplement the resources provided by the technical advisory committee. [1984 c 288 § 9; 1973 1st ex.s. c 5 § 10.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.100 Uniform system of hospital accounting and reporting—Collection of patient discharge data. (1) The commission, after study and in consultation with advisory committees, if any, shall establish by the promulgation of rules and regulations pursuant to the Administrative Procedure Act, chapter 34.04 RCW, a uniform system of accounting and financial reporting, including such cost allocation methods as it may prescribe, by which hospitals shall record and report to the commission their revenues, expenses, other income, other outlays, assets and liabilities, and units of service. All hospitals shall adopt the system for their fiscal year period to be effective at such time and date as the commission shall direct. In determining the effective date for reporting requirements, the commission shall be mindful both of the immediate need for uniform hospital reporting information to effectuate the purposes of this chapter and the administrative and economic difficulties which hospitals may encounter in conversion, but in no event shall such effective date be later than two and one-half years from the date of the formation of the commission.

(2) In establishing such accounting systems and uniform reporting procedures, the commission shall take into consideration:

(a) Existing systems of accounting and reporting presently utilized by hospitals;

(b) Differences among hospitals according to size; financial structure; methods of payment for services; and scope, type, and method of providing services; and

(c) Other pertinent distinguishing factors.

(3) The commission shall, where appropriate, provide for modification, consistent with the purposes of this chapter, of reporting requirements to correctly reflect these differences among hospitals, and to avoid otherwise unduly burdensome costs in meeting the requirements of the uniform system of accounting and financial reporting.

(4) The accounting system, where appropriate, shall be structured so as to establish and differentiate costs incurred for patient-related services rendered by hospitals, as distinguished from those incurred with reference to educational research and other nonpatient-related activities including but not limited to charitable activities of such hospitals.

(5) The commission shall collect and maintain patient discharge data, including data necessary for identification of discharges by diagnosis-related groups. So far as possible, the data collection procedures shall be coordinated with any similar procedures or requirements of the federal department of health and human services for the medicare program and the needs of the department of social and health services in gathering public health statistics, in order to minimize any unduly burdensome reporting requirements imposed on hospitals. [1984 c 288 § 10; 1973 1st ex.s. c 5 § 11.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.110 Annual reports by hospitals. (1) Each hospital shall file annually, at such time as the commission may prescribe, its proposed budget for the next fiscal year, showing projected revenues and expenses and including such further information as the commission may require to implement the purposes of this chapter.

(2) Each hospital shall file annually with the commission after the close of the fiscal year:

(a) A balance sheet detailing the assets, liabilities, and net worth of the hospital;

(b) A statement of income and expenses; and

(c) Such other reports of the costs incurred in rendering services as the commission may prescribe.

(3) Where more than one licensed hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.

(4) The commission shall require certification of specified financial reports by the hospital's certified public accountant, and may require attestation as to such statements from responsible officials of the hospital that such reports have to the best of their knowledge and belief been prepared in accordance with the prescribed system of accounting and reporting.

(5) All reports, except privileged medical information, filed under this chapter shall be available for public inspection and copying under RCW 42.17.250 through 42.17.340.

(6) The commission shall inspect hospital books, audits, and records as reasonably necessary to implement the policies and purposes of this chapter. [1984 c 288 § 11; 1973 1st ex.s. c 5 § 12.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.120 Hospital costs and finances—Analyses and studies—Reports. (1) The commission shall from time to time undertake analyses and studies relating to the need for and delivery of health care services, the availability of such services, hospital rates, health care costs, and the financial status of any hospital or hospitals subject to the provisions of this chapter, and may publish and disseminate such information as it deems desirable in the public interest. It shall further publish information concerning the need for health care services identified by area-wide and state comprehensive health planning agencies under chapter 70.38 RCW and the extent to which such needs are being met.

(2) The commission shall also prepare and file such summaries and compilations or other supplementary reports based on the information filed with the commission hereunder as will advance the purposes of this chapter.

(3) The commission shall furnish a copy of any report regarding any hospital to the chief executive officer of the hospital and the presiding officer of the hospital's governing body. [1984 c 288 § 12; 1973 1st ex.s. c 5 § 13.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.125 Entities to furnish information to commission. Every commercial health insurer registered and doing business in the state under Title 48 RCW, every health care service contractor as defined in RCW 48.44-.010, and the department of social and health services shall, upon request by the commission but not more frequently than annually, furnish to the commission such information as is readily available which may assist the commission in developing cost containment proposals with respect to the fees of licensed health care practitioners. The commission may request such information from the entities identified in this section, and from the federal department of health and human services, if and when the commission deems appropriate to accord with any requirements of federal law which may be imposed. [1984 c 288 § 24.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.130 Report to governor and legislature. The commission shall prepare and, prior to each legislative session beginning in January, transmit to the governor and to the legislature an annual report of commission operations and activities for the preceding fiscal year. This report shall include such findings and recommendations as the commission believes will further the legislative goal of cost containment in the delivery of good quality health care services, including cost-containment

programs that have been or might be adopted, and issues of access to good quality care. The report shall also include data on the amount and proportion of charity care provided by each hospital. The commission's report for 1986, to be submitted in January 1987, shall include an analysis of the impacts of RCW 70.39.165 on (1) the use by indigent persons of health care settings other than hospitals and (2) the caseloads and costs associated with the limited casualty program for medical indigents under RCW 74.09.700. The department of social and health services and the health systems agencies established under chapter 70.38 RCW shall provide such information and assistance as the commission may reasonably require in preparing the report on the impact of RCW 70.39.165. [1984 c 288 § 13; 1977 c 75 § 82; 1973 1st ex.s. c 5 § 14.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.140 Hospital rates—Negotiated rates—Requirements—Review and investigation—Costs—Establishment of rates—Expression of rates—Hospital reimbursement control system—Certain admission practices or policies barred—Coordination with federal programs. (1) From and after a date not less than twelve months but not more than twenty-four months after the adoption of the uniform system of accounting and financial reporting required by RCW 70.39.100, as the commission may direct, the commission shall have the power to initiate such reviews or investigations as may be necessary to assure all purchasers of health care services that the total costs of a hospital are reasonably related to the total services offered by that hospital, that costs do not exceed those that are necessary for prudently and reasonably managed hospitals, that the hospital's rates are reasonably related to the hospital's aggregate costs; and that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference. Effective July 1, 1985, this chapter does not preclude any hospital from negotiating with and charging any particular payer or purchaser rates that are less than those approved by the commission, if:

(a) The rates are cost justified and do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and*

(c) All the terms of such negotiated rates are filed with the commission within ten working days and made available for public inspection.

The commission may retrospectively disapprove such negotiated rates in accordance with procedures established by the commission if such rates are found to contravene any provision of this section.

(2) In order to properly discharge these obligations, the commission shall have full power to review projected annual revenues and approve the reasonableness of rates proposed to generate that revenue established or requested by any hospital subject to the provisions of this chapter. No hospital shall charge for services at rates exceeding those established in accordance with the procedures established hereunder. After June 30, 1985,

rates for inpatient care shall be expressed using an appropriate measure of hospital efficiency, such as that based on diagnosis-related groups, and, if necessary for federal medicare participation in a hospital reimbursement control system, hospitals shall charge for such care at rates prospectively established and expressed in terms of a comparable unit of total payment, such as diagnosis-related groups. In the event any hospital reimbursement control system is implemented, children's hospitals shall be exempted until such time as a pediatric based classification system which reflects the unique resource consumption by patients of a children's hospital is perfected. For the purposes of this exemption, children's hospitals are defined as hospitals whose patients are predominantly under eighteen years of age.

(3) In the interest of promoting the most efficient and effective use of health care service, and providing greater promise of hospital cost containment, the commission may develop a hospital reimbursement control system in which all payers or purchasers participate, that includes procedures for establishing prospective rates, that deals equitably with the costs of providing charity care, and that shall include the participation of the federal medicare program under the social security amendments of 1983, Public Law 98-21. The commission shall have the authority to require utilization reviews of patient care to ensure that hospital admissions and services provided are medically justified. The commission may seek approval, concurrence, or participation in such a system from any federal agency, such as the department of health and human services, prior to securing legislative approval pursuant to concurrent resolution for implementation of any hospital reimbursement control system developed pursuant to this section. The commission shall involve the legislature in the development of any plan for a hospital reimbursement control system.

(4) The commission shall assure that no hospital or its medical staff either adopts or maintains admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is or is likely to be less than the anticipated charges for or costs of such services;

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital; or*

(5) The commission shall serve as the state agency responsible for coordinating state actions and otherwise responding and relating to the efforts of the federal department of health and human services in planning and implementing federal cost containment programs with respect to hospitals and related health care institutions as authorized by the social security amendments of 1983, as now or hereafter amended, or other federal law, and any rules or regulations promulgated thereto. In carrying out this responsibility, the commission may assume any function or role authorized by appropriate

federal regulations implementing the social security amendments of 1983; or assume any combination of such roles or functions as it may determine will most effectively contain the rising costs of the varying kinds of hospitals and related health care institutions in Washington state. In determining its functions or roles in relation to federal efforts, the commission shall seek to ensure coordination, and the reduction of duplicatory cost containment efforts, by the state and federal governments, as well as the diligent fulfillment of the purposes of this chapter and declared public policy and legislative intent herein.

Nothing in this chapter limits the ability of the department of social and health services to establish hospital payment rates pursuant to RCW 74.09.120 or in accord with a federally approvable state plan under Title XIX of the federal social security act. [1984 c 288 § 14; 1974 ex.s. c 163 § 1; 1973 1st ex.s. c 5 § 15.]

***Reviser's note:** Subsections (1)(b) and (4)(d) of this section were vetoed.

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.150 Powers and duties of commission. To properly carry out its authority the commission shall:

(1) Compile and maintain all relevant financial, accounting, and patient discharge data in order to have available the statistical information necessary to properly conduct rate review and approval. Such data shall include necessary operating expenses, appropriate expenses incurred for charity care and for rendering services to patients who do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The commission shall define and prescribe by rule and regulation the types and classes of charges which cannot be changed except as provided by the procedure contained in RCW 70.39.160 and it shall also obtain from each such hospital a current rate schedule as well as any subsequent amendments or modifications of that schedule as it may require. So far as possible, the commission shall compile and maintain the same patient discharge data with respect to all patients as that required under the federal medicare program and the uniform billing procedures applicable to third-party payers.

(2) Permit any hospital subject to the provisions of this chapter to charge reasonable rates which will permit the hospital to render necessary, effective, and efficient service in the public interest.

(3) Take into account, in the determination of reasonable rates under this section, that it is its obligation to assure access to necessary, effective, economically viable, and efficient hospital health care capability throughout the state, rather than the solvency or profitability of any individual hospital subject to this chapter except where the insolvency of a hospital would seriously threaten the access of the rural public to basic health care services.

(4) Take into account, in the determination of reasonable rates under this section for each hospital, the recommendations of appropriate area-wide and state

comprehensive health planning agencies to ensure compliance with Washington comprehensive health planning law, chapter 70.38 RCW.

(5) Permit any hospital, whether proprietary, district, public, or not-for-profit, to retain the excess of its revenues, if any, that exceed the actual cost of providing services, generated as a result of cost-effective practices, if the hospital charges do not exceed rates permitted by the commission.

(6) On or before October 1 of each year, after notice and public hearing, and in full consideration of the intent and purpose of this chapter as expressed in RCW 70.39.010, adopt a target dollar amount of total state-wide hospital revenue for the ensuing calendar year. To set the target amount, the commission shall develop a standard methodology that considers such factors as changes in the economy, affordability of hospital care, cost of hospital-purchased goods, numbers and age of the population, technology, and severity of illness of hospital patients. The commission shall endeavor, in establishing rates, to assure that total hospital revenues do not exceed the target amount for the applicable year. [1984 c 288 § 18; 1977 ex.s. c 154 § 1; 1973 1st ex.s. c 5 § 16.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.160 Changes in rates—Procedure. From and after the date determined by the commission pursuant to RCW 70.39.140, no hospital subject to the provisions of this chapter shall change or amend that schedule of rates and charges of the type and class which cannot be changed without prior approval of the commission, except in accordance with the following procedure:

(1) Any request for a change in rate schedules or other charges must be filed in writing in the form and content prescribed by the commission and with such supporting data as the hospital seeking the change deems appropriate. Unless the commission orders otherwise as provided for in subsection (4) of this section, no hospital shall establish such changes except after publication and notice to the commission of at least thirty days from the time the rate is intended to go into effect. All proposed changes shall be plainly indicated on the schedule effective at that time and shall be open to public inspection. Upon receipt of notice, the commission may suspend the effective date of any proposed change. In any such case a formal written statement of the reasons for the suspension will be promptly submitted to the hospital. Unless suspended, any proposed change shall go into effect upon the date specified in the application.

(2) In any case where such action is deemed necessary, the commission shall promptly, but in any event within thirty days, institute proceedings as to the reasonableness of the proposed changes. The suspension may extend for a period of not more than thirty days beyond the date the change would otherwise go into effect: *Provided*, That should it be necessary, the commission may extend the suspension for an additional thirty days. After the expiration of ninety days from the date the rate is intended to go into effect the new rate will go

into effect, if the commission does not approve, disapprove, or modify the request by that time.

(3) Such proposed changes shall be considered at a public hearing, the time and place of which shall be determined by the commission. The hearing shall be conducted by the commission. Evidence for and against the requested change may be introduced at the time of the hearing by any interested party and witnesses may be heard. The hearing may be conducted without compliance with formal rules of evidence.

(4) The commission may, in its discretion, permit any hospital to make a temporary change in rates which shall be effective immediately upon filing and in advance of any review procedure when it deems it in the public interest to do so. Notwithstanding such temporary change in rates, the review procedures set out in this section shall be conducted by the commission as soon thereafter as is practicable.

(5) Every decision and order of the commission in any contested proceeding shall be in writing and shall state the grounds for the commission's conclusions. The effects of such orders shall be prospective in nature. [1984 c 288 § 19; 1973 1st ex.s. c 5 § 17.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.165 Identification of charity care patients—
Definition of residual bad debt. Within six months of June 7, 1984, the commission shall establish by rule, consistent with the definition of charity care under RCW 70.39.020, the following:

(1) Uniform procedures, data requirements, and criteria for identifying patients receiving charity care;

(2) A definition of residual bad debt as a component of hospital rate-setting and budget review, including reasonable and uniform standards for collection procedures to be used in efforts to collect the unpaid portions of hospital charges that are the patient's responsibility. [1984 c 288 § 15.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.195 Schedule of hospital rates. Each hospital under this chapter shall print and make available for public inspection as prescribed by the commission by rule a schedule of its rates as approved by the commission. [1984 c 288 § 23.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

70.39.200 Penalties for violations. Every person who shall violate or knowingly aid and abet the violation of this chapter or any valid orders, rules, or regulations thereunder, or who fails to perform any act which it is herein made his duty to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of

this chapter may be enjoined from continuing such violation. The commission has authority to levy civil penalties not exceeding one thousand dollars for violations of this chapter. [1984 c 288 § 20; 1973 1st ex.s. c 5 § 21.]

Sunset Act application: See note following RCW 70.39.030.

Severability—1984 c 288: See note following RCW 70.39.010.

Chapter 70.44

PUBLIC HOSPITAL DISTRICTS

Sections

70.44.060	Powers and duties.
70.44.110	Plan to construct or improve—General obligation bonds.
70.44.120	Repealed.
70.44.130	Bonds—Payment—Security for deposits.
70.44.300	Sale of surplus real property.
70.44.400	Withdrawal of territory from public hospital district.

70.44.060 Powers and duties. All public hospital districts organized under the provisions of this chapter shall have power:

(1) To make a survey of existing hospital and other health care facilities within and without such district.

(2) To construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital and other health care facilities and systems for the maintenance of hospitals, buildings, structures, and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the commission and conducted in the same manner and by the same procedure as in or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: *Provided*, That no public hospital district shall have the right of eminent domain and the power of condemnation against any health care facility.

(3) To lease existing hospital and other health care facilities and equipment and/or other property used in connection therewith, including ambulances, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital and other health care services for residents of said district by facilities located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for the services provided by said hospital district; and they may further receive in said hospitals and other health care facilities and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: *Provided*, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available hospital and other

health care facilities of said district, at rates set by the district commissioners.

(4) For the purpose aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, including state and county lands, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospitals and other health care facilities, subject, however, to the applicable limitations provided in subsection (2) of this section.

(5) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, and to issue and sell: (a) Revenue bonds, revenue warrants, or other revenue obligations therefor payable solely out of a special fund or funds into which the district may pledge such amount of the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, to pay the same as the commissioners of the district may determine, such revenue bonds, warrants, or other obligations to be issued and sold in the same manner and subject to the same provisions as provided for the issuance of revenue bonds, warrants, or other obligations by cities or towns under the Municipal Revenue Bond Act, chapter 35.41 RCW, as may hereafter be amended; (b) general obligation bonds therefor in the manner and form as provided in RCW 70.44.110 and 70.44.130, as may hereafter be amended; or (c) interest-bearing warrants to be drawn on a fund pending deposit in such fund of money sufficient to redeem such warrants and to be issued and paid in such manner and upon such terms and conditions as the board of commissioners may deem to be in the best interest of the district; and to assign or sell hospital accounts receivable, and accounts receivable for the use of other facilities or services that the district is or hereafter may be authorized by law to provide, for collection with or without recourse. General obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. Revenue bonds, revenue warrants, or other revenue obligations may be issued and sold in accordance with chapter 39.46 RCW.

(6) To raise revenue by the levy of an annual tax on all taxable property within such public hospital district not to exceed seventy-five cents per thousand dollars of assessed value or such further amount as has been or shall be authorized by a vote of the people: *Provided further*, That the public hospital districts are hereby authorized to levy such a general tax in excess of said seventy-five cents per thousand dollars of assessed value when authorized so to do at a special election conducted in accordance with and subject to all of the requirements of the Constitution and the laws of the state of Washington now in force or hereafter enacted governing the limitation of tax levies. The said board of district commissioners is hereby authorized and empowered to call a special election for the purpose of submitting to

the qualified voters of the hospital district a proposition to levy a tax in excess of the seventy-five cents per thousand dollars of assessed value herein specifically authorized. The superintendent shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file the same in the records of the commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October the commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the commission shall, by resolution, adopt the budget as finally determined and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper county officer of the county in which such public hospital district is located in the same manner as is or may be provided by law for the certification and collection of port district taxes. The commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate or rates as authorized by the commission.

(7) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this chapter.

(8) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the public hospital district shall be brought in the county in which the public hospital district is located.

(9) To pay actual necessary travel expenses and living expenses incurred while in travel status for (a) qualified physicians who are candidates for medical staff positions, and (b) other qualified persons who are candidates for superintendent or other managerial and technical positions, when the district finds that hospitals or other health care facilities owned and operated by it are not adequately staffed and determines that personal interviews with said candidates to be held in the district are necessary or desirable for the adequate staffing of said facilities.

(10) To make contracts, employ superintendents, attendants, and other technical or professional assistants and all other employees; to make contracts with private or public institutions for employee retirement programs; to print and publish information or literature; and to do all other things necessary to carry out the provisions of this chapter. [1984 c 186 § 59; 1983 c 167 § 172; 1982 c 84 § 15; 1979 ex.s. c 155 § 1; 1979 ex.s. c 143 § 4; 1977 ex.s. c 211 § 1; 1974 ex.s. c 165 § 2; 1973 1st ex.s. c 195

§ 83; 1971 ex.s. c 218 § 2; 1970 ex.s. c 56 § 85; 1969 ex.s. c 65 § 1; 1967 c 164 § 7; 1965 c 157 § 2; 1949 c 197 § 18; 1945 c 264 § 6; Rem. Supp. 1949 § 6090-35.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Severability—1979 ex.s. c 155: "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." [1979 ex.s. c 155 § 3.]

Severability—1979 ex.s. c 143: See note following RCW 70.44.200.

Severability—**Effective dates and termination dates**—**Construction**—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Purpose—**Severability**—1967 c 164: See notes following RCW 4.96.010.

Eminent domain

by cities: Chapter 8.12 RCW.

generally: State Constitution Art. 1 § 16.

Limitation on levies: State Constitution Art. 7 § 2; RCW 84.52.050.

Port districts, collection of taxes: RCW 53.36.020.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

70.44.110 Plan to construct or improve—**General obligation bonds.** Whenever the commission deems it advisable that the district acquire or construct a public hospital, or other health care facilities, or make additions or betterments thereto, or extensions thereof, it shall provide therefor by resolution, which shall specify and adopt the plan proposed, declare the estimated cost thereof, and specify the amount of indebtedness to be incurred therefor. General indebtedness may be incurred by the issuance of general obligation bonds or short-term obligations in anticipation of such bonds. General obligation bonds shall mature in not to exceed thirty years. The incurring of such indebtedness shall be subject to the applicable limitations and requirements provided in section 1, chapter 143, Laws of 1917, as last amended by section 4, chapter 107, Laws of 1967, and RCW 39.36.020, as now or hereafter amended. Such general obligation bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 60; 1974 ex.s. c 165 § 3; 1969 ex.s. c 65 § 2; 1955 c 56 § 1; 1945 c 264 § 12; Rem. Supp. 1945 § 6090-41.]

Purpose—1984 c 186: See note following RCW 39.46.110.

70.44.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

70.44.130 Bonds—**Payment**—**Security for deposits.** The principal and interest of such general bonds shall be paid by levying each year a tax upon the taxable property within the district sufficient, together with other revenues of the district available for such purpose, to pay said interest and principal of said bonds, which tax shall be due and collectible as any other tax. All bonds and warrants issued under the authority of this chapter shall be legal securities, which may be used by any bank or trust company for deposit with the state treasurer, or any county or city treasurer, as security for

deposits, in lieu of a surety bond, under any law relating to deposits of public moneys. [1984 c 186 § 61; 1971 ex.s. c 218 § 3; 1945 c 264 § 14; Rem. Supp. 1945 § 6090-43.]

Purpose—1984 c 186: See note following RCW 39.46.110.

70.44.300 Sale of surplus real property. (1) The board of commissioners of any public hospital district may sell and convey at public or private sale real property of the district which the board has determined by resolution is no longer required for public hospital district purposes. Such sale and conveyance may be by deed or real estate contract.

(2) Any sale of district real property authorized pursuant to this section shall be preceded, not more than one year prior to the date of sale, by market value appraisals by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board of commissioners, and no sale shall take place if the sale price would be less than ninety percent of the average of such appraisals.

(3) When the board of commissioners of any public hospital district proposes a sale of district real property pursuant to this section and the value of the property exceeds one hundred thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper of general circulation within the public hospital district. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the public hospital district property at the place and the day and hour fixed in the notice and consider evidence offered for and against the propriety and advisability of the proposed sale.

(4) If in the judgment of the board of commissioners of any district the sale of any district real property not needed for public hospital district purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded. The fee or commissions charged for any broker service shall not exceed seven percent of the resulting sale price for a single parcel. No licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 selected by the board to appraise the market value of a parcel of property to be sold may be a party to any contract with the public hospital district to sell such property for a period of three years after the appraisal. [1984 c 103 § 4; 1982 c 84 § 2.]

70.44.400 Withdrawal of territory from public hospital district. Territory within a public hospital district may be withdrawn therefrom in the same manner provided by law for withdrawal of territory from water districts, as provided by chapter 57.28 RCW. For purposes of conforming with such procedure, the public hospital district shall be deemed to be the water district and the public hospital board of commissioners shall be deemed

to be the water district board of commissioners. [1984 c 100 § 1.]

Chapter 70.48

CITY AND COUNTY JAILS ACT

Sections

- 70.48.240 Transfer of felons from jail to state institution—Time limit.
- 70.48.400 Sentences to be served in state institutions—When—Sentences that may be served in jail—Financial responsibility of city or county.
- 70.48.410 Financial responsibility for convicted felons.
- 70.48.420 Financial responsibility for persons detained on parole hold.
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- 70.48.460 Contracts for incarceration services for prisoners not covered by RCW 70.48.400 through 70.48.450.

70.48.240 Transfer of felons from jail to state institution—Time limit. A person imprisoned in a jail and sentenced to a state institution for a felony conviction shall be transferred to a state institution before the forty-first day from the date of sentencing.

This section does not apply to persons sentenced for a felony who are held in the facility as a condition of probation or who are specifically sentenced to confinement in the facility.

Payment for persons sentenced to state institutions and remaining in a jail from the eighth through the fortieth days following sentencing shall be in accordance with the procedure prescribed under this chapter. [1984 c 235 § 8; 1979 ex.s. c 232 § 20.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.400 Sentences to be served in state institutions—When—Sentences that may be served in jail—Financial responsibility of city or county. Persons sentenced to felony terms or a combination of terms of more than three hundred sixty-five days of incarceration shall be committed to state institutions under the authority of the department of corrections. Persons serving sentences of three hundred sixty-five consecutive days or less may be sentenced to a jail as defined in *RCW 70.48.010. All persons convicted of felonies or misdemeanors and sentenced to jail shall be the financial responsibility of the city or county. [1984 c 235 § 1.]

***Reviser's note:** This reference should read "RCW 70.48.020," the section that defines "jail."

Effective dates—1984 c 235: "Section 5 of this act [RCW 70.48.440] 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 [March 27, 1984]. The remainder of this act shall take effect July 1, 1984." [1984 c 235 § 10.]

70.48.410 Financial responsibility for convicted felons. Persons convicted of a felony as defined by chapter 9A.20 RCW and committed to the care and custody of the department of corrections shall be the financial responsibility of the department of corrections not later than the eighth day, excluding weekends and holidays, following sentencing for the felony and notification that the prisoner is available for movement to a state correctional institution. However, if good cause is shown, a superior court judge may order the prisoner detained in the jail beyond the eight-day period for an additional period not to exceed ten days. If a superior court orders a convicted felon to be detained beyond the eighth day following sentencing, the county or city shall retain financial responsibility for that ten-day period or portion thereof ordered by the court. [1984 c 235 § 2.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.420 Financial responsibility for persons detained on parole hold. A person detained in jail solely by reason of a parole hold is the financial responsibility of the city or the county detaining the person until the sixteenth day, at which time the person shall become the financial responsibility of the department of corrections. Persons who are detained in a jail on a parole hold and for whom the prosecutor has filed a felony charge remain the responsibility of the city or county. [1984 c 235 § 3.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.430 Financial responsibility for work release inmates detained in jail. Inmates, as defined by RCW 72.09.020, who reside in a work release facility and who are detained in a city or county jail are the financial responsibility of the department of corrections. [1984 c 235 § 4.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.440 Office of financial management to establish reimbursement rate for cities and counties—Rate until June 30, 1985—Re-establishment of rates. The office of financial management shall establish a uniform equitable rate for reimbursing cities and counties for the care of sentenced felons who are the financial responsibility of the department of corrections and are detained or incarcerated in a city or county jail.

Until June 30, 1985, the rate for the care of sentenced felons who are the financial responsibility of the department of corrections shall be ten dollars per day. Cost of extraordinary emergency medical care incurred by prisoners who are the financial responsibility of the department of corrections under this chapter shall be reimbursed. The department of corrections shall be advised as far in advance as practicable by competent medical authority of the nature and course of treatment required to ensure the most efficient use of state resources to address the medical needs of the offender. In the event emergency medical care is needed, the department of corrections shall be advised as soon as practicable after the offender is treated.

Prior to June 30, 1985, the office of financial management shall meet with the corrections standards board to establish criteria to determine equitable rates regarding variable costs for sentenced felons who are the financial responsibility of the department of corrections after June 30, 1985. The office of financial management shall re-establish these rates each even-numbered year beginning in 1986. [1984 c 235 § 5.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.450 Local jail reporting form—**Information to be provided by city or county requesting payment for prisoners from state.** The department of corrections is responsible for developing a reporting form for the local jails. The form shall require sufficient information to identify the person, type of state responsibility, method of notification for availability for movement, and the number of days for which the state is financially responsible. The information shall be provided by the city or county requesting payment for prisoners who are the financial responsibility of the department of corrections. [1984 c 235 § 6.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

70.48.460 Contracts for incarceration services for prisoners not covered by RCW 70.48.400 through 70.48.450. Nothing in RCW 70.48.400 through 70.48.450 precludes the establishment of mutually agreeable contracts between the department of corrections and counties for incarceration services of prisoners not covered by RCW 70.48.400 through 70.48.450. [1984 c 235 § 7.]

Effective dates—1984 c 235: See note following RCW 70.48.400.

Chapter 70.58 VITAL STATISTICS

Sections

70.58.320	Registry for handicapped children—Reports by physician of sentinel defects or disabling conditions—Reports by persons filling out birth certificate.
70.58.322	Registry for handicapped children—"Sentinel birth defects" defined.
70.58.324	Registry for handicapped children—Disclosure of children's identity—Requirements.
70.58.330	Registry for handicapped children—Reports of physicians confidential—Exceptions.
70.58.332	Information on sentinel birth defects and services for disabled.
70.58.334	Committee to determine information to be prepared on sentinel birth defects and services.
70.58.338	Monitoring of sentinel birth defect trends.

70.58.320 Registry for handicapped children—**Reports by physician of sentinel defects or disabling conditions**—**Reports by persons filling out birth certificate.** Whenever the attending physician discovers that a newborn child has a sentinel defect, and whenever a physician discovers upon treating a child under the age of fourteen years that such child has a partial or complete disability or a condition which may lead to partial or complete disability, such fact shall be reported to the

local registrar and to the parents, or legal guardians of the child, upon a form to be provided by the secretary of social and health services. No report shall be required if the disabling condition has been previously reported or the condition is not one required to be reported by the secretary of social and health services. Sentinel defects shall be reported at the same time as birth certificates are required to be filed. Each physician shall make a report as to disabling conditions within thirty days after discovery thereof. If a child with sentinel birth defects is born outside the hospital, the person filling out the birth certificate shall make a report to the department.

The forms to be provided by the secretary of social and health services for this purpose shall require such information as the secretary deems necessary to carry out the purpose of RCW 70.58.300 through 70.58.350. [1984 c 156 § 1; 1979 c 141 § 111; 1959 c 177 § 3.]

70.58.322 Registry for handicapped children—**"Sentinel birth defects" defined.** Sentinel birth defect shall mean a birth defect whose occurrence signals the possible presence of environmental hazards, genetic disease, poor quality health care, or some other factor determined by the users of the data to be present when a certain birth defect occurs.

Sentinel birth defects include, but are not limited to:

- (1) Anencephaly;
- (2) Spina bifida;
- (3) Hydrocephaly;
- (4) Cleft palate;
- (5) Total cleft palate;
- (6) Esophageal atresia and stenosis;
- (7) Rectal and anal atresia;
- (8) Hypospadias;
- (9) Reduction and deformity of the upper limb;
- (10) Reduction and deformity of the lower limb;
- (11) Congenital dislocation of the hip; and
- (12) Down's syndrome. [1984 c 156 § 2.]

70.58.324 Registry for handicapped children—**Disclosure of children's identity**—**Requirements.** (1) The department shall not disclose the identity of a sentinel birth defect child from reports required under RCW 70.58.320 unless:

- (a) There is a demonstrated public health need for the individual identity;
- (b) The department obtains written consent of the parent or guardian of the child; and
- (c) The department assures that the identity of the child shall not be released without the written consent of the parent or guardian.

(2) If there is a demonstrated need for the individual identity of children without sentinel birth defects to conduct a case-control investigation, subsection (1) (a), (b), and (c) of this section shall apply. [1984 c 156 § 3.]

70.58.330 Registry for handicapped children—**Reports of physicians confidential**—**Exceptions.** Except compilations of statistical data furnished by the department, the information furnished in the reports required by RCW 70.58.320 shall be secret and shall not

be revealed except upon order of the superior court or by the process established by RCW 70.58.324. A parent or legal guardian of a child who is the subject of a report required by RCW 70.58.320 shall have access to such report or reports. [1984 c 156 § 4; 1959 c 177 § 4.]

70.58.332 Information on sentinel birth defects and services for disabled. The department shall assure that information is prepared and periodically updated on:

- (1) Sentinel birth defects; and
- (2) Public and private services for the disabled with sentinel birth defects. [1984 c 156 § 5.]

70.58.334 Committee to determine information to be prepared on sentinel birth defects and services. The secretary shall appoint a committee of physicians, educators, social service specialists, representatives of the department, representatives of the state board of health, representatives of the superintendent of public instruction, and parents of children with sentinel birth defects. The committee shall determine what information is to be prepared and furnished on sentinel birth defects and public and private services as required by RCW 70.58.332. [1984 c 156 § 6.]

70.58.338 Monitoring of sentinel birth defect trends. The department shall develop procedures to monitor the data on sentinel birth defect trends which may be caused by environmental hazards. [1984 c 156 § 7.]

Chapter 70.74

WASHINGTON STATE EXPLOSIVES ACT

Sections

- 70.74.180 Explosive devices prohibited—Penalty.
70.74.270 Endangering life and property by explosives—Penalties.

70.74.180 Explosive devices prohibited—Penalty. Any person who has in his possession or control any shell, bomb, or similar device, charged or filled with one or more explosives, intending to use it or cause it to be used for an unlawful purpose, is guilty of a felony, and upon conviction shall be punished by imprisonment in a state prison for a term of not more than twenty years. [1984 c 55 § 1; 1969 ex.s. c 137 § 21; 1931 c 111 § 18; RRS § 5440-18.]

70.74.270 Endangering life and property by explosives—Penalties. Every person who maliciously places any explosive substance or material in, upon, under, against, or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure it if exploded, shall be punished as follows:

- (1) If the circumstances and surroundings are such that the safety of any person might be endangered by the explosion, by imprisonment in the state penitentiary for not more than twenty years;

- (2) In every other case by imprisonment in the state penitentiary for not more than five years. [1984 c 55 § 2; 1971 ex.s. c 302 § 8; 1969 ex.s. c 137 § 23; 1909 c 249 § 400; RRS § 2652.]

Chapter 70.77

STATE FIREWORKS LAW

Sections

- 70.77.126 Definitions—"Fireworks."
70.77.131 Definitions—"Special fireworks."
70.77.136 Definitions—"Common fireworks."
70.77.146 Definitions—"Special effects."
70.77.177 Definitions—"Local fire official."
70.77.180 Definitions—"Permit."
70.77.250 State fire marshal to enforce and administer—Powers and duties.
70.77.255 Acts prohibited without a license—Minimum age for license or permit—Activities permitted without license or permit.
70.77.260 Application for permit.
70.77.265 Investigation, report on permit application.
70.77.270 Governing body may grant or deny permit—Conditions.
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70.77.285 Public display permit—Bond or insurance for liability.
70.77.290 Public display permit—Granted for exclusive purpose—Nontransferable.
70.77.295 Public display permit—Amount of bond or insurance.
70.77.305 Fire marshal to issue licenses—Registration of in-state agents.
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70.77.325 Annual application for a license—Dates.
70.77.355 General license for public display—Surety bond or insurance—Filing of license certificate with local permit application.
70.77.360 Denial of license for material misrepresentation or if contrary to public safety or welfare.
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70.77.395 Dates and times common fireworks may be sold or discharged.
70.77.415 Supervision of public displays.
70.77.420 Storage permit required—Application—Investigation—Grant or denial—Conditions.
70.77.425 Approved storage facilities required.
70.77.430 Sale of stock after revocation or expiration of license.
70.77.440 Seizure of fireworks—Petition for return—Hearing—Decision—Judicial action for recovery—Sale of confiscated fireworks.
70.77.485 Unlawful possession of fireworks—Penalties.
70.77.488 Unlawful discharge or use of fireworks—Penalty.
70.77.510 Unlawful sales or transfers of special fireworks—Penalty.
70.77.515 Unlawful sales or transfers of common fireworks—Penalty.
70.77.517 Unlawful transportation of fireworks—Penalty.
70.77.520 Unlawful to permit fire nuisance where fireworks kept—Penalty.
70.77.535 Special effects for entertainment media.
70.77.540 Penalty.
70.77.570 Repealed.
70.77.575 State fire marshal to provide list of fireworks which may be sold to public.
70.77.580 Retailers to post list of fireworks.
70.77.912 Severability—1984 c 249.

70.77.126 Definitions—"Fireworks." "Fireworks" means any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks. [1984 c 249 § 1; 1982 c 230 § 1.]

70.77.131 Definitions—"Special fireworks." "Special fireworks" means any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes (1) fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and (2) fireworks not classified as common fireworks. [1984 c 249 § 2; 1982 c 230 § 2.]

70.77.136 Definitions—"Common fireworks." "Common fireworks" means any fireworks designed primarily to produce visual or audible effects by combustion.

(1) The term includes:

(a) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;

(b) Smoke devices;

(c) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines, and shells;

(d) Class C explosives classified on January 1, 1984, as common fireworks by the United States department of transportation.

(2) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets. [1984 c 249 § 3; 1982 c 230 § 3.]

70.77.146 Definitions—"Special effects." "Special effects" means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as a necessary part of a motion picture, radio or television production, theatrical, or opera. [1984 c 249 § 4; 1982 c 230 § 5.]

70.77.177 Definitions—"Local fire official." "Local fire official" means the chief of a local fire department or fire protection district, a chief fire protection officer or such other person as may be designated by the governing body of a city, county, or district to act as a local fire official under this chapter. [1984 c 249 § 6.]

70.77.180 Definitions—"Permit." "Permit" means the official permission granted by a local public agency for the purpose of establishing and maintaining a place within the jurisdiction of the local agency where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used. [1984 c 249 § 5; 1982 c 230 § 8; 1961 c 228 § 13.]

70.77.250 State fire marshal to enforce and administer—Powers and duties. (1) The state fire marshal shall enforce and administer this chapter.

(2) The state fire marshal shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter.

(3) The state fire marshal may prescribe such rules relating to fireworks as may be necessary for the protection of life and property and for the implementation of this chapter.

(4) The state fire marshal shall prescribe such rules as may be necessary to ensure state-wide minimum standards for the enforcement of this chapter. Counties, cities, and towns shall comply with such state rules. Any local rules adopted by local authorities that are more restrictive than state law as to the types of fireworks that may be sold shall have an effective date no sooner than one year after their adoption.

(5) The state fire marshal may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency or local government. [1984 c 249 § 7; 1982 c 230 § 12; 1961 c 228 § 27.]

70.77.255 Acts prohibited without a license—Minimum age for license or permit—Activities permitted without license or permit. (1) Except as otherwise provided in this chapter, no person, without an appropriate state license may:

(a) Manufacture, import, possess, or sell any fireworks at wholesale or retail for any use;

(b) Make a public display of fireworks; or

(c) Transport fireworks, except as a public carrier delivering to a licensee.

(2) Except as authorized by a license and permit under subsection (1)(b) of this section, no person may discharge special fireworks at any place.

(3) No person less than eighteen years of age may apply for or receive a license or permit under this chapter.

(4) No license or permit is required for the possession or use of common fireworks lawfully purchased at retail. [1984 c 249 § 10; 1982 c 230 § 14; 1961 c 228 § 28.]

70.77.260 Application for permit. (1) Any person desiring to do any act mentioned in RCW 70.77.255(1) (a) or (c) shall apply in writing to a local fire official for a permit.

(2) Any person desiring to put on a public display of fireworks under RCW 70.77.255(1)(b) shall apply in writing to a local fire official for a permit. Application shall be made at least ten days in advance of the proposed display. [1984 c 249 § 11; 1982 c 230 § 15; 1961 c 228 § 29.]

General license holders to file license certificate with application for permit for public display of fireworks: RCW 70.77.355.

70.77.265 Investigation, report on permit application. The local fire official receiving an application for a permit under RCW 70.77.260(1) shall investigate the application and submit a report of findings and a

recommendation for or against the issuance of the permit, together with reasons, to the governing body of the city, county, or fire protection district. [1984 c 249 § 12; 1961 c 228 § 30.]

70.77.270 Governing body may grant or deny permit—Conditions. The governing body of a city, county, or fire protection district may grant or deny an application for a permit under RCW 70.77.260(1). The governing body may place reasonable conditions on any permit it issues. [1984 c 249 § 13; 1961 c 228 § 31.]

70.77.280 Public display permit—Investigation—Governing body may grant or deny—Conditions. The local fire official receiving an application for a permit under RCW 70.77.260(2) for a public display of fireworks shall investigate whether the character and location of the display as proposed would be hazardous to property or dangerous to any person. Based on the investigation, the official shall submit a report of findings and a recommendation for or against the issuance of the permit, together with reasons, to the governing body of the city, county, or fire protection district. The governing body may grant or deny the application and may place reasonable conditions on any permit it issues. [1984 c 249 § 14; 1961 c 228 § 33.]

70.77.285 Public display permit—Bond or insurance for liability. Except as provided in RCW 70.77.355, the applicant for a permit under RCW 70.77.260(2) for a public display of fireworks shall include with the application evidence of a bond issued by an authorized surety company. The bond shall be in the amount required by RCW 70.77.295 and shall be conditioned upon the applicant's payment of all damages to persons or property resulting from or caused by such public display of fireworks, or any negligence on the part of the applicant or its agents, servants, employees, or subcontractors in the presentation of the display. Instead of a bond, the applicant may include a certificate of insurance evidencing the carrying of appropriate public liability insurance in the amount required by RCW 70.77.295 for the benefit of the person named therein as assured, as evidence of ability to respond in damages. The local fire official receiving the application shall approve the bond or insurance if it meets the requirements of this section. [1984 c 249 § 15; 1982 c 230 § 16; 1961 c 228 § 34.]

70.77.290 Public display permit—Granted for exclusive purpose—Nontransferable. If a permit under RCW 70.77.260(2) for the public display of fireworks is granted, the sale, possession and use of fireworks for the public display is lawful for that purpose only. The permit granted is not transferable. [1984 c 249 § 16; 1961 c 228 § 35.]

70.77.295 Public display permit—Amount of bond or insurance. In the case of an application for a permit under RCW 70.77.260(2) for the public display of fireworks, the amount of the surety bond or certificate of insurance required under RCW 70.77.285 shall be not

less than fifty thousand dollars and one million dollars for bodily injury liability for each person and event, respectively, and not less than twenty-five thousand dollars for property damage liability for each event. [1984 c 249 § 17; 1982 c 230 § 17; 1961 c 228 § 36.]

70.77.305 Fire marshal to issue licenses—Registration of in-state agents. The state fire marshal has the power to issue licenses for the manufacture, importation, sale, and use of all fireworks in this state. A person may be licensed as a manufacturer, importer, or wholesaler under this chapter only if the person has a designated agent in this state who is registered with the state fire marshal. [1984 c 249 § 18; 1982 c 230 § 18; 1961 c 228 § 38.]

70.77.311 Exemptions from licensing—Purchase of certain agricultural and wildlife fireworks by government agencies—Purchase of common fireworks by religious or private organizations. (1) No license is required for the purchase of agricultural and wildlife fireworks by government agencies if:

(a) The agricultural and wildlife fireworks are used for wildlife control or are distributed to farmers, ranchers, or growers through a wildlife management program administered by the United States department of the interior or an equivalent state or local governmental agency;

(b) The distribution is in response to a written application describing the wildlife management problem that requires use of the devices;

(c) It is of no greater quantity than necessary to control the described problem; and

(d) It is limited to situations where other means of control are unavailable or inadequate.

(2) No license is required for religious organizations or private organizations or persons to purchase or use common fireworks and such audible ground devices as firecrackers, salutes, and chasers if:

(a) Purchased from a licensed manufacturer, importer, or wholesaler;

(b) For use on prescribed dates and locations;

(c) For religious or specific purposes; and

(d) A permit is obtained from the local fire official. [1984 c 249 § 19; 1982 c 230 § 19.]

70.77.325 Annual application for a license—Dates. (1) Application for a license shall be made annually by every person holding an existing license who wishes to continue the activity requiring the license. The application shall be accompanied by the annual license fee as prescribed in RCW 70.77.340.

(2) A person applying for an annual license as a retailer under this chapter shall file an application by June 10 of the current year. The state fire marshal shall grant or deny the license within fifteen days of receipt of the application.

(3) A person applying for an annual license as a manufacturer, importer, or wholesaler under this chapter shall file an application by January 31 of the current

year. The state fire marshal shall grant or deny the license within ninety days of receipt of the application. [1984 c 249 § 20; 1982 c 230 § 21; 1961 c 228 § 42.]

70.77.355 General license for public display—Surety bond or insurance—Filing of license certificate with local permit application. (1) Any adult person may secure a general license from the state fire marshal for the public display of fireworks within the state of Washington. A general license is subject to the provisions of this chapter relative to the securing of local permits for the public display of fireworks in any city, county, or fire protection district, except that in lieu of filing the bond or certificate of public liability insurance with the appropriate local official under RCW 70.77.260 as required in RCW 70.77.285, the same bond or certificate shall be filed with the state fire marshal. The bond or certificate of insurance for a general license in addition shall provide that: (a) The insurer will not cancel the insured's coverage without fifteen days prior written notice to the state fire marshal; (b) the duly licensed pyrotechnic operator required by law to supervise and discharge the public display, acting either as an employee of the insured or as an independent contractor and the state of Washington, its officers, agents, employees, and servants are included as additional insureds, but only insofar as any operations under contract are concerned; and (c) the state is not responsible for any premium or assessments on the policy.

(2) The state fire marshal may issue such general licenses. The holder of a general license shall file a certificate from the state fire marshal evidencing the license with any application for a local permit for the public display of fireworks under RCW 70.77.260. [1984 c 249 § 21; 1982 c 230 § 26; 1961 c 228 § 48.]

70.77.360 Denial of license for material misrepresentation or if contrary to public safety or welfare. If the state fire marshal finds that an application for any license under this chapter contains a material misrepresentation or that the granting of any license would be contrary to the public safety or welfare, the state fire marshal may deny the application for the license. [1984 c 249 § 22; 1982 c 230 § 27; 1961 c 228 § 49.]

70.77.365 Denial of license for failure to meet qualifications or conditions. A written report by the state fire marshal or a local fire official, or any of their authorized representatives, disclosing that the applicant for a license, or the premises for which a license is to apply, do not meet the qualifications or conditions for a license constitutes grounds for the denial by the state fire marshal of any application for a license. [1984 c 249 § 23; 1982 c 230 § 28; 1961 c 228 § 50.]

70.77.395 Dates and times common fireworks may be sold or discharged. Except as provided in RCW 70.77.311, no common fireworks shall be sold or discharged within this state except from twelve o'clock noon on the twenty-eighth of June to twelve o'clock noon on the sixth of July of each year. No common fireworks may be

sold or discharged between the hours of eleven o'clock p.m. and nine o'clock a.m. [1984 c 249 § 24; 1982 c 230 § 31; 1961 c 228 § 56.]

70.77.415 Supervision of public displays. Every public display of fireworks shall be handled or supervised by a pyrotechnic operator licensed by the state fire marshal under RCW 70.77.255. [1984 c 249 § 25; 1982 c 230 § 33; 1961 c 228 § 60.]

70.77.420 Storage permit required—Application—Investigation—Grant or denial—Conditions. It is unlawful for any person to store fireworks of any class without a permit for such storage from the local fire official in the jurisdiction in which the storage is to be made. A person proposing to store fireworks shall apply in writing to a local fire official at least ten days prior to the date of the proposed storage. The official receiving the application for a storage permit shall investigate whether the character and location of the storage as proposed would constitute a hazard to property or be dangerous to any person. Based on the investigation, the official may grant or deny the application. The official may place reasonable conditions on any permit granted. [1984 c 249 § 26; 1982 c 230 § 34; 1961 c 228 § 61.]

70.77.425 Approved storage facilities required. It is unlawful for any person to store unsold stocks of fireworks remaining unsold after the lawful period of sale as provided in the person's permit except in such places of storage as the local fire official issuing the permit approves. Unsold stocks of common fireworks remaining after the authorized retail sales period from twelve o'clock noon on June 28th to twelve o'clock noon on July 6th shall be returned on or before July 31st of the same year to the approved storage facilities of a licensed fireworks wholesaler, to a magazine or storage place approved by a local fire official. [1984 c 249 § 27; 1982 c 230 § 35; 1961 c 228 § 62.]

70.77.430 Sale of stock after revocation or expiration of license. Notwithstanding RCW 70.77.255, following the revocation or expiration of a license, a licensee in lawful possession of a lawfully acquired stock of fireworks may sell such fireworks, but only under supervision of the state fire marshal. Any sale under this section shall be solely to persons who are authorized to buy, possess, sell, or use such fireworks. [1984 c 249 § 28; 1982 c 230 § 36; 1961 c 228 § 63.]

70.77.440 Seizure of fireworks—Petition for return—Hearing—Decision—Judicial action for recovery—Sale of confiscated fireworks. (1) Any person whose fireworks are seized under the provisions of RCW 70.77.435 may within ten days after such seizure petition the state fire marshal to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the state fire marshal within fifteen days after filing and an oral hearing granted the petitioner, if

requested. Notice of the decision of the state fire marshal shall be served upon the petitioner. The state fire marshal may order the fireworks seized under this chapter disposed of or returned to the petitioner if illegally or erroneously seized. The determination of the state fire marshal is final unless within sixty days an action is commenced in a court of competent jurisdiction in the state of Washington for the recovery of the fireworks seized by the state fire marshal.

(2) If the fireworks are not returned to the petitioner or destroyed pursuant to RCW 70.77.435, the state fire marshal may sell confiscated common fireworks and special fireworks that are legal for use and possession under this chapter to wholesalers licensed by the state fire marshal. Sale shall be by public auction after publishing a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the auction is to be held, at least three days before the date of the auction. The proceeds of the sale of the seized fireworks under this section shall be deposited in the general fund. Fireworks that are not legal for use and possession in this state shall be destroyed by the state fire marshal. [1984 c 249 § 29; 1961 c 228 § 65.]

70.77.485 Unlawful possession of fireworks—Penalties. It is unlawful to possess any class or kind of fireworks in violation of this chapter. A violation of this section is:

(1) A misdemeanor if involving less than one pound of fireworks, exclusive of external packaging; or

(2) A gross misdemeanor if involving one pound or more of fireworks, exclusive of external packaging.

For the purposes of this section, "external packaging" means any materials that are not an integral part of the operative unit of fireworks. [1984 c 249 § 30; 1961 c 228 § 74.]

70.77.488 Unlawful discharge or use of fireworks—Penalty. It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another. A violation of this section is a gross misdemeanor. [1984 c 249 § 37.]

70.77.510 Unlawful sales or transfers of special fireworks—Penalty. It is unlawful for any person knowingly to sell, transfer, or agree to sell or transfer any special fireworks to any person who is not a fireworks licensee as provided for by this chapter. A violation of this section is a gross misdemeanor. [1984 c 249 § 31; 1982 c 230 § 40; 1961 c 228 § 79.]

70.77.515 Unlawful sales or transfers of common fireworks—Penalty. It is unlawful for any person to sell or transfer any common fireworks to a consumer or user other than at a fixed place of business of a retailer for which a license and permit have been issued. A violation of this section is a gross misdemeanor. [1984 c 249 § 32; 1982 c 230 § 41; 1961 c 228 § 80.]

70.77.517 Unlawful transportation of fireworks—Penalty. It is unlawful for any person, except in the course of continuous interstate transportation through any state, to transport fireworks from this state into any other state, or deliver them for transportation into any other state, or attempt so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such other state specifically prohibiting or regulating the use of fireworks. A violation of this section is a gross misdemeanor.

This section does not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a state for the use of federal agencies in the carrying out or the furtherance of their operations.

In the enforcement of this section, the definitions of fireworks contained in the laws of the respective states shall be applied.

As used in this section, the term "state" includes the several states, territories, and possessions of the United States, and the District of Columbia. [1984 c 249 § 34.]

70.77.520 Unlawful to permit fire nuisance where fireworks kept—Penalty. It is unlawful for any person to allow any rubbish to accumulate in any premises in which fireworks are stored or sold or permit a fire nuisance to exist in such a premises. A violation of this section is a misdemeanor. [1984 c 249 § 33; 1961 c 228 § 81.]

70.77.535 Special effects for entertainment media. This chapter does not prohibit the assembling, compounding, use, and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio or television productions, theatricals, or operas when such use and display is a necessary part of the production and such person possesses a valid permit from the local fire official. [1984 c 249 § 35; 1982 c 230 § 43; 1961 c 228 § 84.]

70.77.540 Penalty. Except as otherwise provided in this chapter, any person violating any of the provisions of this chapter or any rules issued thereunder is guilty of a misdemeanor. [1984 c 249 § 36; 1961 c 228 § 85.]

70.77.570 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

70.77.575 State fire marshal to provide list of fireworks which may be sold to public. (1) The state fire marshal shall adopt by rule a list of the fireworks that may be sold to the public in this state pursuant to this chapter. The state fire marshal shall file the list by October 1st of each year with the code reviser for publication, unless the previously published list has remained current.

(2) The state fire marshal shall provide the list adopted under subsection (1) of this section by

November 1st of each year to all manufacturers, wholesalers, and importers licensed under this chapter, unless the previously distributed list has remained current. [1984 c 249 § 8.]

70.77.580 Retailers to post list of fireworks. Retailers required to be licensed under this chapter shall post prominently at each retail outlet a list of the fireworks that may be sold to the public in this state pursuant to this chapter. The posted list shall be in a form approved by the state fire marshal. The fire marshal shall make available the list. [1984 c 249 § 9.]

70.77.912 Severability—1984 c 249. 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 249 § 41.]

Chapter 70.79

BOILERS AND UNFIRED PRESSURE VESSELS

Sections	
70.79.020	Compensation and travel expenses. (Effective July 1, 1985.)
70.79.060	Construction, installation must conform to rules—Special installation and operating permits.

70.79.020 Compensation and travel expenses. (Effective July 1, 1985.) The members of the board shall be compensated in accordance with RCW 43.03.240 and shall receive travel expenses incurred while in the performance of their duties as members of the board, in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 105; 1975-'76 2nd ex.s. c 34 § 159; 1951 c 32 § 2.]

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.

70.79.060 Construction, installation must conform to rules—Special installation and operating permits. (1) Except as provided in subsection (2) of this section, no power boiler, low pressure boiler, or unfired pressure vessel which does not conform to the rules and regulations formulated by the board governing new construction and installation shall be installed and operated in this state after twelve months from the date upon which the first rules and regulations under this chapter pertaining to new construction and installation shall have become effective, unless the boiler or unfired pressure vessel is of special design or construction, and is not covered by the rules and regulations, nor is in any way inconsistent with such rules and regulations, in which case a special installation and operating permit may at its discretion be granted by the board.

(2) A special permit may also be granted for boilers and pressure vessels manufactured before 1951 which do not comply with the code requirements of the American Society of Mechanical Engineers adopted under this

chapter, if the boiler or pressure vessel is operated exclusively for the purposes of public exhibition, and the board finds, upon inspection, that operation of the boiler or pressure vessel for such purposes is not unsafe. [1984 c 93 § 1; 1951 c 32 § 6.]

Chapter 70.94

WASHINGTON CLEAN AIR ACT

Sections	
70.94.0935	Limitation on revenues collected from sources of air pollution—Exemption.
70.94.151	Classification of air contaminant sources—Registration—Fee—Registration program defined.
70.94.430	Penalties.
70.94.431	Additional or alternative penalties—Enforcement—Distribution—Remission or mitigation—Appeals.
70.94.800	Legislative declaration—Intent.
70.94.805	"Acid deposition" defined.
70.94.810	Joint legislative committee on science and technology—Establishment of consultant selection committee—Duties of consultant—Interagency agreement to assist evaluation of acid rain—Amount of assistance.
70.94.815	Application for money to finance evaluation.
70.94.820	Monitoring by department of ecology.
70.94.825	Department of ecology to initiate comprehensive evaluation of acid rain.
70.94.850	Emission credits banking program—Amount of credit.
70.94.860	Department of ecology may accept, delegate the prevention of significant deterioration program.
70.94.870	Report to legislature on emission credits banking program.

70.94.0935 Limitation on revenues collected from sources of air pollution—Exemption. Revenues collected from sources of air pollution for services rendered on a periodic basis for any authority shall not exceed in any fiscal year fifty percent of the "supplemental income" paid by component cities, towns, and counties as defined in RCW 70.94.092 for the same fiscal year. Fees collected under RCW 70.94.152 are exempt from this limitation. [1984 c 88 § 1.]

70.94.151 Classification of air contaminant sources—Registration—Fee—Registration program defined. (1) The board of any activated authority or the state board, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the

state board or board of the authority, require registration and reporting shall register therewith and make reports containing information as may be required by such state board or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The state board or board may require that such registration be accompanied by a fee and may determine the amount of such fee for such class or classes: *Provided*, That the amount of the fee shall only be to compensate for the costs of administering such registration program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: *Provided further*, That any such registration made with either the board or the state board shall preclude a further registration with any other board or the state board. [1984 c 88 § 2; 1969 ex.s. c 168 § 19; 1967 c 238 § 28.]

70.94.430 Penalties. Any person who violates any of the provisions of this chapter, or any ordinance, resolution, rule or regulation in force pursuant thereto shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than ninety days, or by both fine and imprisonment for each separate violation.

Any person who wilfully violates any of the provisions of this chapter or any ordinance, resolution, rule or regulation in force pursuant thereto shall be guilty of a gross misdemeanor. Upon conviction the offender shall be punished by a fine of not less than one hundred dollars for each offense or by imprisonment for a term of not more than one year or by both fine and imprisonment.

In case of a continuing violation, whether or not wilfully committed, each day's continuance shall be a separate and distinct violation. [1984 c 255 § 1; 1973 1st ex.s. c 176 § 1; 1967 c 238 § 61.]

70.94.431 Additional or alternative penalties—Enforcement—Distribution—Remission or mitigation—Appeals. (1) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 RCW or any of the rules and regulations of the department or the board shall incur a penalty in the form of a fine in an

amount not to exceed one thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. For the purposes of this subsection, the maximum daily fine imposed by a local board for violations of standards by a specific emissions unit is one thousand dollars.

(2) Further, the person is subject to a fine of up to five thousand dollars to be levied by the director of the department of ecology if requested by the board of a local authority or if the director determines that the penalty is needed for effective enforcement of this chapter. A local board shall not make such a request until notice of violation and compliance order procedures have been exhausted, if such procedures are applicable. For the purposes of this subsection, the maximum daily fine imposed by the department of ecology for violations of standards by a specific emissions unit is five thousand dollars.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. Except as provided in subsection (4) of this section, the penalty shall become due and payable when the person incurring the same receives a notice in writing from the director or his designee or the control officer of the authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the hearings board as provided for in chapter 43.21B RCW. When a request is made for a hearing, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid to the department or the board within thirty days after it becomes due and payable, and a request for a hearing has not been made, the attorney general, upon the request of the director or his designee, or the attorney for the local authority, upon request of the board or control officer, shall bring an action to recover such penalty in the superior court of the county in which the violation occurred. All penalties recovered under this section by the state board shall be paid into the state treasury and credited to the general fund or, if recovered by the authority, fifty percent shall be paid into the treasury of the authority and credited to its funds and fifty percent shall be distributed to the cities, towns and counties within the authority, on a pro rata basis, as each contributes to support the authority pursuant to RCW 70.94.093. If a prior penalty for the same violation has been paid to a local authority, the penalty imposed under subsection (2) of this section shall be reduced by the amount of the payment. Notwithstanding any other provisions of this chapter, no penalty may be levied for the violation of any opacity standard in an amount exceeding four hundred dollars per day.

(4) If a penalty is levied under subsection (2) of this section, the director or the director's authorized delegate may, upon written application therefor received within

fifteen days after the notice imposing any penalty is received by the person incurring the penalty, and when deemed in the best interest to carry out the purposes of this chapter, remit or mitigate any penalty provided in this section upon such terms as the director in the director's discretion deems proper, and may ascertain the facts upon all such applications in such manner and under such regulations as the director deems proper. The mitigation shall not affect or reduce the penalty imposed by the local board. Any person incurring any penalty under this section may appeal the same to the hearings board as provided in chapter 43.21B RCW. Appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, appeals shall be filed within thirty days of receipt of notice from the director or the director's authorized delegate setting forth the disposition of the application. Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from the disposition. Whenever an appeal of any penalty incurred under this section is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, 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 may do business, to recover the penalty. In all such actions the procedure and rules of evidence shall be the same as for an ordinary civil action except as otherwise provided in this chapter.

To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

In all actions brought in the superior court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in an ordinary civil action. [1984 c 255 § 2; 1973 1st ex.s. c 176 § 2; 1969 ex.s. c 168 § 53.]

70.94.800 Legislative declaration—Intent. The legislature recognizes that:

(1) Acid deposition resulting from commercial, industrial or other emissions of sulphur dioxide and nitrogen oxides pose a threat to the delicate balance of the state's ecological systems, particularly in alpine lakes that are known to be highly sensitive to acidification;

(2) Failure to act promptly and decisively to mitigate or eliminate this danger may soon result in untold and

irreparable damage to the fish, forest, wildlife, agricultural, water, and recreational resources of this state;

(3) There is a direct correlation between emissions of sulphur dioxides and nitrogen oxides and increases in acid deposition;

(4) Acidification is cumulative; and

(5) Once an environment is acidified, it is difficult, if not impossible, to restore the natural balance.

It is therefore the intent of the legislature to mitigate or eliminate the acid deposition problem by curbing sources of acid deposition within the state and to assure that adequate monitoring is conducted in alpine lakes in order to allow for early detection of acidification and the resulting environmental degradation. [1984 c 277 § 1.]

70.94.805 "Acid deposition" defined. "Acid deposition," as used in RCW 70.94.800 through 70.94.815 means the wet or dry deposition from the atmosphere of chemical compounds with a pH of less than 5.6. [1984 c 277 § 2.]

70.94.810 Joint legislative committee on science and technology—Establishment of consultant selection committee—Duties of consultant—Interagency agreement to assist evaluation of acid rain—Amount of assistance. (1) The joint legislative committee on science and technology is directed to establish a consultant selection committee that includes the chairs of the senate parks and ecology committee and the house environmental affairs committee and one member appointed by the department of ecology. A consultant shall be selected to:

(a) Evaluate existing information and research on acid deposition in the Pacific Northwest region;

(b) Identify data gaps that need to be filled to provide sound base-line information on acid deposition in the region; and

(c) Coordinate with the department of ecology the evaluations specified under subsections (a) and (b) of this section.

(2) In addition to the consultant selected under subsection (1) of this section, the joint committee on science and technology may execute an interagency agreement with the department of ecology for the purpose of providing financial assistance for the department's comprehensive evaluation of the phenomenon known as acid rain. The amount of financial assistance to be provided under this subsection shall not exceed fifty thousand dollars or be less than twenty-five thousand dollars. [1984 c 277 § 3.]

70.94.815 Application for money to finance evaluation. The joint legislative committee on science and technology is authorized to apply for and receive moneys from the federal government or other sources, public or private, to finance any of the activities authorized or mandated by RCW 70.94.800 through 70.94.815. [1984 c 277 § 5.]

70.94.820 Monitoring by department of ecology. The department of ecology is responsible for periodic monitoring of the alpine lakes and other appropriate areas of the state to ensure early detection of acidification and environmental degradation. [1984 c 277 § 6.]

70.94.825 Department of ecology to initiate comprehensive evaluation of acid rain. The department of ecology shall initiate in consultation with the joint science and technology committee a comprehensive evaluation of the phenomenon known as acid deposition or acid rain. The study shall evaluate the:

(1) Scope and extent of acid rain, if any, that is present within the various geographic areas of the state, including lakes and other water bodies;

(2) Present and potential effects on the state's land and water bodies;

(3) Present and potential impacts of acid rain upon the economic and environmental welfare of the state;

(4) Factors which contribute to creation of acid rain now existing in the state;

(5) Means and methods for controlling, reducing, and eliminating acid rain now in place within the state as well as preventing its recurrence in the future;

(6) Range of funds needed, on a continuing basis, to implement the means and methods set forth in subsection (5) of this section together with the proposed funding sources as well as the economic impacts associated with these means and methods; and

(7) Sufficiency of existing pollution control laws of the state to resolve satisfactorily the problems of the state associated with acid rain. [1984 c 277 § 7.]

70.94.850 Emission credits banking program—Amount of credit. The department of ecology and the local boards may implement an emission credits banking program. For the purposes of this section, an emission credits banking program means a program whereby an air contaminant source which reduces emissions of a given air contaminant by an amount greater than that required by applicable law, regulation, or order is granted credit for a given amount, which credit shall be administered by a credit bank operated by the appropriate agency. The amount of the credit shall be determined by the department or local board with jurisdiction, but it shall be less than the amount of the emissions reduction. The credit may be used, traded, sold, or otherwise expended for purposes established by regulation of state or local agencies consistent with the provisions of the prevention of significant deterioration program under RCW 70.94.860, the bubble program under RCW 70.94.155, and the new source review program under RCW 70.94.152, if there will be no net adverse impact on air quality. [1984 c 164 § 1.]

70.94.860 Department of ecology may accept, delegate the prevention of significant deterioration program. The department of ecology may accept delegation of the prevention of significant deterioration program pursuant to Part C, Subpart 1 of the federal Clean Air Act. The

department may, in turn, delegate this program to the local authority with jurisdiction in a given area. [1984 c 164 § 2.]

70.94.870 Report to legislature on emission credits banking program. The department of ecology shall study the emission credits banking program and report to the legislature on its effectiveness by January 1, 1986. The report shall include a recommendation as to whether the program should be continued. [1984 c 164 § 3.]

Chapter 70.95

SOLID WASTE MANAGEMENT—RECOVERY AND RECYCLING

Sections

70.95.010	Legislative finding.
70.95.030	Definitions.
70.95.090	Contents of each county and city solid waste management comprehensive plan.
70.95.100	Department to provide technical assistance—Submission of plans to department—Recommended revisions.
70.95.110	Maintenance of plans—Plans to be reviewed at least every five years.
70.95.120	Repealed.
70.95.165	Solid waste disposal facility siting—Site review by county or city—Standards—Local solid waste advisory committees—Membership.
70.95.185	Permit for solid waste disposal site or facilities—Review by department—Appeal of issuance—Validity of permits issued after June 7, 1984.
70.95.190	Permit for solid waste disposal site or facilities—Renewal—Appeal—Validity of renewal.
70.95.268	Department authorized to disburse funds under chapter 43.99F RCW for local government solid waste projects.

70.95.010 Legislative finding. The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) The following priorities in the management of solid waste are necessary and should be followed in order of descending priority as applicable:

- Waste reduction;
- Waste recycling;
- Energy recovery or incineration; and

(d) Landfill. [1984 c 123 § 1; 1975-'76 2nd ex.s. c 41 § 1; 1969 ex.s. c 134 § 1.]

70.95.030 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "City" means every incorporated city and town.
- (2) "Committee" means the solid waste advisory committee.
- (3) "Department" means the department of ecology.
- (4) "Director" means the director of the department of ecology.
- (5) "Disposal site" means the location where any final treatment, utilization, processing, or depository of solid waste occurs.
- (6) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- (7) "Jurisdictional health department" means city, county, city-county, or district public health department.
- (8) "Person" means individual, firm, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- (9) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.
- (10) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof.
- (11) "Waste reduction" means reducing the amount or type of waste generated.
- (12) "Waste recycling" means reusing waste materials and extracting valuable materials from a waste stream.
- (13) "Energy recovery or incineration" means reducing the volume of wastes by use of an enclosed device using controlled flame combustion.
- (14) "Landfill" means a disposal facility or part of a facility at which waste is placed in or on land and which is not a land treatment facility. [1984 c 123 § 2; 1975-'76 2nd ex.s. c 41 § 3; 1970 ex.s. c 62 § 60; 1969 ex.s. c 134 § 3.]

Solid waste disposal—Powers and duties of state board of health as to environmental contaminants: RCW 43.20.050.

70.95.090 Contents of each county and city solid waste management comprehensive plan. Each county and city solid waste management plan shall include the following:

- (1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.
- (2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

- (a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;
 - (b) Take into account the comprehensive land use plan of each jurisdiction;
 - (c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and
 - (d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.
- (4) A program for surveillance and control.
- (5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

- (a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his place of business and the area covered by his operation;
- (b) Any city solid waste operation within the county and the boundaries of such operation;
- (c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;
- (d) The projected solid waste collection needs for the respective jurisdictions for the next six years.
- (6) A review of potential areas that meet the criteria as outlined in RCW 70.95.165. [1984 c 123 § 5; 1971 ex.s. c 293 § 1; 1969 ex.s. c 134 § 9.]

Certain provisions not to detract from utilities and transportation commission powers, duties, and functions: RCW 80.01.300.

70.95.100 Department to provide technical assistance—Submission of plans to department—Recommended revisions. The department shall provide to counties and cities technical assistance in the preparation, review, and revision of solid waste management plans required by this chapter. Each comprehensive county solid waste management plan shall be submitted to the department for technical review and approval. The department may recommend revisions essential to the achievement of effective solid waste management and the purposes of this chapter. [1984 c 123 § 6; 1969 ex.s. c 134 § 10.]

70.95.110 Maintenance of plans—Plans to be reviewed at least every five years. The comprehensive county solid waste management plans and any city solid waste management plans prepared in accordance with RCW 70.95.080 shall be maintained in a current condition and reviewed and revised periodically by counties and cities as may be required by the department. Upon each review such plans shall be extended to show long-range needs for solid waste handling facilities for twenty years in the future, and a revised construction and capital acquisition program for six years in the future. Each

revised solid waste management plan shall be submitted to the department.

Each plan shall be reviewed and revised within five years of June 7, 1984, and thereafter shall be reviewed, and revised if necessary, at least once every five years. [1984 c 123 § 7; 1969 ex.s. c 134 § 11.]

70.95.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

70.95.165 Solid waste disposal facility siting—Site review by county or city—Standards—Local solid waste advisory committees—Membership. (1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

- (a) Geology;
- (b) Ground water;
- (c) Soil;
- (d) Flooding;
- (e) Surface water;
- (f) Slope;
- (g) Cover material;
- (h) Capacity;
- (i) Climatic factors;
- (j) Land use;
- (k) Toxic air emissions; and
- (l) Other factors as determined by the department.

(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of up to nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under chapter 43.99F RCW, for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee. [1984 c 123 § 4.]

70.95.185 Permit for solid waste disposal site or facilities—Review by department—Appeal of issuance—Validity of permits issued after June 7, 1984. Every permit issued by a jurisdictional health department under RCW 70.95.180 shall be reviewed by the department to ensure that the proposed site or facility conforms with:

(1) All applicable laws and regulations including the minimal functional standards for solid waste handling; and

(2) The approved comprehensive solid waste management plan.

The department shall review the permit within thirty days after the issuance of the permit by the jurisdictional health department. The department may appeal the issuance of the permit by the jurisdictional health department to the pollution control hearings board, as described in chapter 43.21B RCW, for noncompliance with subsection (1) or (2) of this section.

No permit issued pursuant to RCW 70.95.180 after June 7, 1984, shall be considered valid unless it has been reviewed by the department. [1984 c 123 § 8.]

70.95.190 Permit for solid waste disposal site or facilities—Renewal—Appeal—Validity of renewal. Every permit for a solid waste disposal site shall be renewed annually on a date to be established by the jurisdictional health department having jurisdiction of the site. Prior to renewing a permit, the health department shall conduct such inspections as it deems necessary to assure that the solid waste disposal site and facilities located on the site meet minimum functional standards of the department, applicable local regulations, and are not in conflict with the approved solid waste management plan. The department shall review and may appeal the renewal as set forth for the approval of permits in RCW 70.95.185.

A renewal issued under this section shall not be considered valid unless it has been reviewed by the department. [1984 c 123 § 9; 1969 ex.s. c 134 § 19.]

70.95.268 Department authorized to disburse funds under chapter 43.99F RCW for local government solid waste projects. The department is authorized to use funds under chapter 43.99F RCW to disburse to local governments in developing solid waste recovery or recycling projects. Priority shall be given to those projects that use incineration of solid waste to produce energy and to recycling projects. [1984 c 123 § 10.]

Chapter 70.95B

DOMESTIC WASTE TREATMENT PLANTS— CERTIFICATION AND REGULATION OF OPERATORS

Sections

70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Compensation and travel expenses. (Effective July 1, 1985.)

70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Compensation and travel expenses. (Effective July 1, 1985.) For the purpose of carrying out the provisions of this chapter, a board of examiners for wastewater operator certification shall be appointed. This board may

serve in a common capacity for the certification of both water and wastewater plant and system operators. One member shall be named from the department of ecology, by its director to serve at his pleasure, and one member from the department of social and health services by its secretary, to serve at his pleasure, and one member who is required to employ a certified operator and who holds the position of city manager, city engineer, director of public works, superintendent of utilities, or an equivalent position who will be appointed by the governor. The governor shall also appoint two members who are operators holding a certificate of at least the second highest operator classification for wastewater plant operators established by regulation of the director, and if authorized in a water supply system operator certification act, two members who are operators holding a certificate of at least the second highest classification for waterworks operators established pursuant to such act.

The employer representative shall be appointed for an initial one-year term and the operators for initial terms of two and three years respectively. Thereafter, the members appointed by the governor shall serve for a three-year period. Vacancies shall be filled for the remainder for an unexpired term by the appointing authorities.

This board shall assist in the development of rules and regulations, shall prepare, administer, and evaluate examinations of operator competency as required in this chapter, and shall recommend the issuance or revocation of certificates. The board shall determine when and where the examinations shall be held. The examination shall be held at least three times annually.

Each member appointed by the governor shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses while engaged in the business of the board as prescribed in RCW 43.03-.050 and 43.03.060. [1984 c 287 § 106; 1975-'76 2nd ex.s. c 34 § 161; 1973 c 139 § 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.

Water and wastewater operator certification board of examiners: RCW 70.119.080.

Chapter 70.98

NUCLEAR ENERGY AND RADIATION

Sections

70.98.080 Rules and regulations—Licensing requirements and procedure—Notice of license application—Objections—Notice upon granting of license—Registration of sources of ionizing radiation—Exemptions from registration or licensing.

70.98.080 Rules and regulations—Licensing requirements and procedure—Notice of license application—Objections—Notice upon granting of license—Registration of sources of ionizing radiation—Exemptions from registration or licensing. (1)

The agency shall provide by rule or regulation for general or specific licensing of byproduct, source, special nuclear materials, or devices or equipment utilizing such materials, or other radioactive material occurring naturally or produced artificially. Such rule or regulation shall provide for amendment, suspension, or revocation of licenses. Such rule or regulation shall provide that:

(a) Each application for a specific license shall be in writing and shall state such information as the agency, by rule or regulation, may determine to be necessary to decide the technical, insurance, and financial qualifications, or any other qualification of the applicant as the agency may deem reasonable and necessary to protect the occupational and public health and safety. The agency may at any time after the filing of the application, and before the expiration of the license, require further written statements and shall make such inspections as the agency deems necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended, or revoked. In no event shall the agency grant a specific license to any applicant who has never possessed a specific license issued by a recognized state or federal authority until the agency has conducted an inspection which insures that the applicant can meet the rules, regulations and standards adopted pursuant to this chapter. All applications and statements shall be signed by the applicant or licensee. The agency may require any applications or statements to be made under oath or affirmation;

(b) Each license shall be in such form and contain such terms and conditions as the agency may by rule or regulation prescribe;

(c) No license issued under the authority of this chapter and no right to possess or utilize sources of ionizing radiation granted by any license shall be assigned or in any manner disposed of; and

(d) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations or orders issued in accordance with the provisions of this chapter.

(2) Before the agency issues a license to an applicant under this section, it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns. The incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the agency within twenty days after date of transmittal of such notice, written objections against the applicant or against the activity for which the license is sought, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the agency may in its discretion hold a formal hearing under chapter 34.04 RCW. Upon the granting of a license under this section the agency shall send a duplicate of the license or written notification to the chief

executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

This subsection shall not apply to activities conducted within the boundaries of the Hanford reservation.

(3) The agency may require registration of all sources of ionizing radiation.

(4) The agency may exempt certain sources of ionizing radiation or kinds of uses or users from the registration or licensing requirements set forth in this section when the agency makes a finding after approval of the technical advisory board that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(5) In promulgating rules and regulations pursuant to this chapter the agency shall, insofar as practical, strive to avoid requiring dual licensing, and shall provide for such recognition of other state or federal licenses as the agency shall deem desirable, subject to such registration requirements as the agency may prescribe. [1984 c 96 § 1; 1965 c 88 § 5; 1961 c 207 § 8.]

Chapter 70.105

HAZARDOUS WASTE DISPOSAL

Sections

70.105.090	Violations—Gross misdemeanor.
70.105.110	Application of chapter to radioactive waste—Regulation of dangerous wastes associated with energy facilities.
70.105.145	Department's authority to participate in and administer federal act.
70.105.160	Waste management study—Public hearings—Adoption or modification of rules—Recommendations to legislature.
70.105.165	Disposal of dangerous wastes at commercial off-site land disposal facilities—Limitations.

70.105.090 Violations—Gross misdemeanor. In addition to the penalties imposed pursuant to RCW 70.105.080, any person who violates any provisions of this chapter, or of the rules implementing this chapter, and any person who knowingly aids or abets another in conducting any violation of any provisions of this chapter, or of the rules implementing this chapter, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than ten thousand dollars, and/or by imprisonment in the county jail for not more than one year, for each separate violation. Each and every such violation shall be a separate and distinct offense. In case of continuing violation, every day's continuance shall be a separate and distinct offense. [1984 c 237 § 1; 1983 c 172 § 3; 1975-'76 2nd ex.s. c 101 § 9.]

Severability—1983 c 172: See note following RCW 70.105.097.

70.105.110 Application of chapter to radioactive waste—Regulation of dangerous wastes associated

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with energy facilities. (1) With the exception of subsection (2), nothing in this chapter shall apply to any radioactive waste or radioactive material.

(2) Nothing in this chapter shall alter, amend, or supersede the provisions of chapter 80.50 RCW, except that, notwithstanding any provision of chapter 80.50 RCW, regulation of dangerous wastes associated with energy facilities from generation to disposal shall be solely by the department pursuant to chapter 70.105 RCW. In the implementation of said section, the department shall consult and cooperate with the energy facility site evaluation council and, in order to reduce duplication of effort and to provide necessary coordination of monitoring and on-site inspection programs at energy facility sites, any on-site inspection by the department that may be required for the purposes of this chapter shall be performed pursuant to an interagency coordination agreement with the council.

(3) To facilitate the implementation of this chapter, the energy facility site evaluation council may require certificate holders to remove from their energy facility sites any dangerous wastes, controlled by this chapter, within ninety days of their generation. [1984 c 237 § 3; 1975-'76 2nd ex.s. c 101 § 11.]

70.105.145 Department's authority to participate in and administer federal act. Notwithstanding any other provision of chapter 70.105 RCW, the department of ecology is empowered to participate fully in and is empowered to administer all aspects of the programs of the federal Resource Conservation and Recovery Act, as it exists on June 7, 1984, (42 U.S.C. Sec. 6901 et seq.), contemplated for participation and administration by a state under that act. [1984 c 237 § 2; 1983 c 270 § 2.]

Severability—1983 c 270: See note following RCW 90.48.260.

70.105.160 Waste management study—Public hearings—Adoption or modification of rules—Recommendations to legislature. The department shall conduct a study to determine the best management practices for categories of waste for the priority waste management methods established in RCW 70.105.150, with due consideration in the course of the study to sound environmental management and available technology. As an element of the study, the department shall review methods that will help achieve the priority of RCW 70.105.150(1)(a), waste reduction. Before issuing any proposed regulations, the department shall conduct public hearings regarding the best management practices for the various waste categories studied by the department. After conducting the study, the department shall prepare new rules or modify existing rules as appropriate to promote implementation of the priorities established in RCW 70.105.150 for management practices which assure use of sound environmental management techniques and available technology. The preliminary study shall be completed by July 1, 1986, and the rules shall be adopted by July 1, 1987. The solid waste advisory committee shall review the studies and the new or modified rules and submit recommendations to the legislature by January 1, 1988, regarding policy options (such as

fee incentives, disposal bans, etc.) that will be used to reduce the production of dangerous and extremely hazardous waste in Washington state.

The studies shall be updated at least once every five years. The funding for these studies shall be from the hazardous waste control and elimination account, subject to legislative appropriation. [1984 c 254 § 2; 1983 1st ex.s. c 70 § 2.]

Severability—1984 c 254: "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 254 § 3.]

70.105.165 Disposal of dangerous wastes at commercial off-site land disposal facilities—Limitations. (1) Independent of the processing or issuance of any or all federal, state, and local permits for disposal of dangerous wastes, no disposal of dangerous wastes at a commercial off-site land disposal facility may be undertaken prior to July 1, 1986, unless:

(a) The disposal results from actions taken under RCW 70.105A.060 (2) and (3), or results from other emergency situations; or

(b) Studies undertaken by the department under RCW 70.105.160 to determine the best management practices for various waste categories under the priority waste management methods established in RCW 70.105.150 are completed for the particular wastes or waste categories to be disposed of and any regulatory revisions deemed necessary by the department are proposed and do not prohibit land disposal of such wastes; or

(c) Final regulations have been adopted by the department that allow for such disposal.

(2) Construction of facilities used solely for the purpose of disposal of wastes that have not met the requirements of subsection (1) of this section shall not be undertaken by any developer of a dangerous waste disposal facility.

(3) The department shall prioritize the studies of waste categories undertaken under RCW 70.105.160 to provide initial consideration of those categories most likely to be suitable for land disposal. Any regulatory changes deemed necessary by the department shall be proposed and subjected to the rule-making process by category as the study of each waste category is completed. All of the study shall be completed, and implementing regulations proposed, by July 1, 1986.

(4) Any final permit issued by the department before the adoption of rules promulgated as a result of the study conducted under RCW 70.105.160 shall be modified as necessary to be consistent with such rules. [1984 c 254 § 1.]

Severability—1984 c 254: See note following RCW 70.105.160.

Chapter 70.126

HOME HEALTH CARE AND HOSPICE CARE

Sections

70.126.010 Definitions.

70.126.020	Home health care—Services and supplies included, not included.
70.126.030	Hospice care—Provider, plan, services included.
70.126.040	Standards for certification—Rules.

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

(1) "Hospice" means a private or public agency or organization that administers and provides hospice care and is certified by the department of social and health services as a hospice care agency.

(2) "Hospice care" means care prescribed and supervised by the attending physician and provided by the hospice to the terminally ill in accordance with the standards of RCW 70.126.030.

(3) "Home health agency" means a private or public agency or organization that administers and provides home health care and is certified by the department of social and health services as a home health care agency.

(4) "Home health care" means services, supplies, and medical equipment that meet the standards of RCW 70.126.020, prescribed and supervised by the attending physician, and provided through a home health agency and rendered to members in their residences when hospitalization would otherwise be required.

(5) "Home health aide" means a person employed by a home health agency or a hospice who is providing part-time or intermittent care under the supervision of a registered nurse, a physical therapist, occupational therapist, or speech therapist. Such care includes ambulation and exercise, assistance with medications ordinarily self-administered, reporting changes in patients' conditions and needs, completing appropriate records, and personal care or household services that are needed to achieve the medically desired results.

(6) "Home health care plan of treatment" means a written plan of care established and periodically reviewed by a physician that describes medically necessary home health care to be provided to a patient for treatment of illness or injury.

(7) "Hospice plan of care" means a written plan of care established and periodically reviewed by a physician that describes hospice care to be provided to a terminally ill patient for palliation or medically necessary treatment of an illness or injury.

(8) "Physician" means a physician licensed under chapter 18.57 or 18.71 RCW. [1984 c 22 § 4; 1983 c 249 § 5.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.

70.126.020 Home health care—Services and supplies included, not included. (1) Home health care shall be provided by a home health agency and shall:

(a) Be delivered by a registered nurse, physical therapist, occupational therapist, speech therapist, or home health aide on a part-time or intermittent basis;

(b) Include, as applicable under the written plan, supplies and equipment such as:

(i) Drugs and medicines that are legally obtainable only upon a physician's written prescription, and insulin;

(ii) Rental of durable medical apparatus and medical equipment such as wheelchairs, hospital beds, respirators, splints, trusses, braces, or crutches needed for treatment;

(iii) Supplies normally used for hospital inpatients and dispensed by the home health agency such as oxygen, catheters, needles, syringes, dressings, materials used in aseptic techniques, irrigation solutions, and intravenous fluids.

(2) The following services may be included when medically necessary, ordered by the attending physician, and included in the approved plan of treatment:

- (a) Licensed practical nurses;
- (b) Respiratory therapists;
- (c) Social workers holding a master's degree;

(d) Ambulance service that is certified by the physician as necessary in the approved plan of treatment because of the patient's physical condition or for unexpected emergency situations.

(3) Services not included in home health care include:

(a) Nonmedical, custodial, or housekeeping services except by home health aides as ordered in the approved plan of treatment;

(b) "Meals on Wheels" or similar food services;

(c) Nutritional guidance;

(d) Services performed by family members;

(e) Services not included in an approved plan of treatment;

(f) Supportive environmental materials such as handrails, ramps, telephones, air conditioners, and similar appliances and devices. [1984 c 22 § 5; 1983 c 249 § 6.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.

70.126.030 Hospice care—Provider, plan, services included. (1) Hospice care shall be provided by a hospice and shall meet the standards of RCW 70.126.020 (1)(a) and (b)(ii) and (iii).

(2) A written hospice care plan shall be approved by a physician and shall be reviewed at designated intervals.

(3) The following services for necessary medical or palliative care shall be included when ordered by the attending physician and included in the approved plan of treatment:

(a) Short-term care as an inpatient;

(b) Care of the terminally ill in an individual's home on an outpatient basis as included in the approved plan of treatment;

(c) Respite care that is continuous care in the most appropriate setting for a maximum of five days per three-month period of hospice care. [1984 c 22 § 6; 1983 c 249 § 7.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.

70.126.040 Standards for certification—Rules. The department of social and health services shall adopt rules establishing standards for the certification of home health agencies and hospices under this chapter. These standards shall be compatible with and at least as stringent as home health and hospice certification regulations

established by the United States department of health and human services and hospice accreditation standards established by the joint commission on accreditation of hospitals. [1984 c 22 § 7; 1983 c 249 § 8.]

Effective date—1984 c 22: See note following RCW 48.21.220.

Effective date—1983 c 249: See note following RCW 70.126.001.

Chapter 70.136

HAZARDOUS MATERIALS INCIDENTS

Sections

70.136.030	Incident command agencies—Designation by political subdivisions.
70.136.050	Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations.
70.136.055	Person transporting hazardous materials—Responsibility for incident clean-up—Liability of person causing hazardous materials incident.

70.136.030 Incident command agencies—Designation by political subdivisions. The governing body of each applicable political subdivision of this state may designate a hazardous materials incident command agency within its respective boundaries, and file this designation with the *director of the state department of emergency services or its successor agency. In designating an incident command agency, the political subdivision shall consider the training, manpower, expertise, and equipment of various available agencies as well as the Uniform Fire Code and other existing codes and regulations. Along state and interstate highway corridors, the Washington state patrol shall be the designated incident command agency unless by mutual agreement that role has been assumed by another designated incident command agency. [1984 c 165 § 1; 1982 c 172 § 4.]

***Reviser's note:** "Director of the state department of emergency services" redesignated "director of emergency management" by 1984 c 38. See RCW 38.52.030.

70.136.050 Person rendering emergency aid in hazardous materials incident—Immunity from liability—Limitations. Any person who, in good faith, renders emergency care, assistance, or advice with respect to a hazardous materials incident is not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or wilful or wanton misconduct, if:

(1) The political subdivision has designated a hazardous materials incident command agency; and

(2) The designated incident command agency and the person whose assistance is requested have entered into a written hazardous materials assistance agreement prior to the incident which incorporates the terms and conditions of RCW 70.136.060, except as specified in RCW 70.136.070;

(3) The request for assistance comes from the designated incident command agency. [1984 c 165 § 2; 1982 c 172 § 5.]

70.136.055 Person transporting hazardous materials—Responsibility for incident clean-up—Liability of person causing hazardous materials incident. See RCW 4.24.314.

Chapter 70.142

CHEMICAL CONTAMINANTS AND WATER QUALITY

Sections

- 70.142.010 Establishment of standards for chemical contaminants in drinking water by state board of health.
- 70.142.020 Establishment of monitoring requirements for chemical contaminants in public water supplies by state board of health.
- 70.142.030 Monitoring requirements—Considerations.
- 70.142.040 Establishment of water quality standards by local health department in county of first class or larger.
- 70.142.050 Noncomplying public water supply systems—Submission of corrective plan—Notification to system's customers.

70.142.010 Establishment of standards for chemical contaminants in drinking water by state board of health.

(1) In order to protect public health from chemical contaminants in drinking water, the state board of health shall conduct public hearings and, where technical data allow, establish by rule standards for allowable concentrations. For purposes of this chapter, the words "chemical contaminants" are limited to synthetic organic chemical contaminants and to any other contaminants which in the opinion of the board constitute a threat to public health. If adequate data to support setting of a standard is available, the state board of health shall adopt by rule a maximum contaminant level for water provided to consumers' taps. Standards set for contaminants known to be toxic shall consider both short-term and chronic toxicity. Standards set for contaminants known to be carcinogenic shall be consistent with risk levels established by the state board of health.

(2) The board shall consider the best available scientific information in establishing the standards. The board may review and revise the standards. State and local standards for chemical contaminants may be more strict than the federal standards. [1984 c 187 § 1.]

70.142.020 Establishment of monitoring requirements for chemical contaminants in public water supplies by state board of health. The state board of health shall conduct public hearings and establish by rule monitoring requirements for chemical contaminants in public water supplies. Results of tests conducted pursuant to such requirements shall be submitted to the department of social and health services and to the local health department. The state board of health may review and revise monitoring requirements for chemical contaminants. [1984 c 187 § 2.]

70.142.030 Monitoring requirements—Considerations. The state board of health in determining monitoring requirements for public water supply systems shall

take into consideration economic impacts as well as public health risks. [1984 c 187 § 5.]

70.142.040 Establishment of water quality standards by local health department in county of first class or larger. Each local health department serving a county of the first class or larger may establish water quality standards for its jurisdiction more stringent than standards established by the state board of health. Each local health department establishing such standards shall base the standards on the best available scientific information. [1984 c 187 § 3.]

70.142.050 Noncomplying public water supply systems—Submission of corrective plan—Notification to system's customers. Public water supply systems as defined by RCW 70.119.020 that the state board of health or local health department determines do not comply with the water quality standards applicable to the system shall immediately initiate preparation of a corrective plan designed to meet or exceed the minimum standards for submission to the department of social and health services. The owner of such system shall within one year take any action required to bring the water into full compliance with the standards: *Provided*, That the department of social and health services may require compliance as promptly as necessary to abate an immediate public health threat or may extend the period of compliance if substantial new construction is required: *Provided further*, That the extension shall be granted only upon a determination by the department, after a public hearing, that the extension will not pose an imminent threat to public health. Each such system shall include a notice identifying the water quality standards exceeded, and the amount by which the water tested exceeded the standards, in all customer bills mailed after such determination. The notification shall continue until water quality tests conducted in accordance with this chapter establish that the system meets or exceeds the minimum standards. [1984 c 187 § 4.]

Title 71

MENTAL ILLNESS

(Formerly: Mental Illness and Inebriacy)

Chapters

- 71.05 Mental illness.
- 71.06 Sexual psychopaths and psychopathic delinquents.

Chapter 71.05

MENTAL ILLNESS

Sections

- 71.05.150 Detention of mentally disordered persons for evaluation and treatment—Procedure.

71.05.150 Detention of mentally disordered persons for evaluation and treatment—Procedure. (1) (a)

When a mental health professional designated by the county receives information alleging that a person, as a result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, such mental health professional, after investigation and evaluation of the specific facts alleged, and of the reliability and credibility of the person or persons, if any, providing information to initiate detention, may, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the county designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility.

(b) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court that a person presents, as a result of a mental disorder, a likelihood of serious harm to others or himself, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear not less than twenty-four hours after service of the order at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period. The order shall state the address of the evaluation and treatment facility to which the person is to report and whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis and that if the person named in the order fails to appear at the evaluation and treatment facility at or before the date and time stated in the order, such person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(c) The mental health professional shall then serve or cause to be served on such person, his guardian, and conservator, if any, a copy of the order to appear together with a notice of rights and a petition for initial detention. After service on such person the mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to remain in his home or other place of his choosing prior to the time of evaluation and shall be permitted to be accompanied by one or more of his relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission

evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(d) If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility may admit such person as required by RCW 71.05.170 or may provide treatment on an outpatient basis. If the person ordered to appear fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the mental health professional designated by the county who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. Should the mental health professional notify a peace officer authorizing him to take a person into custody under the provisions of this subsection, he shall file with the court a copy of such authorization and a notice of detention. At the time such person is taken into custody there shall commence to be served on such person, his guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) When a mental health professional designated by the county receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm to himself or others, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1)(d) of this section.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and immediately delivered to an evaluation and treatment facility:

(a) Only pursuant to subsections (1)(d) and (2) of this section; or

(b) When he has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm to others or himself or is in imminent danger because of being gravely disabled.

(5) Persons delivered to evaluation and treatment facilities by peace officers pursuant to subsection (4)(b) of this section may be held by the facility for a period of up to twelve hours: *Provided*, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated county mental health professional must file a supplemental petition for detention, and commence service on the designated attorney for the detained person.

[1984 c 233 § 1; 1979 ex.s. c 215 § 9; 1975 1st ex.s. c 199 § 3; 1974 ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

Chapter 71.06

SEXUAL PSYCHOPATHS AND PSYCHOPATHIC DELINQUENTS

Sections

71.06.005 Application of chapter.

71.06.005 Application of chapter. With respect to sexual psychopaths, this chapter applies only to crimes or offenses committed before July 1, 1984. [1984 c 209 § 27.]

Effective dates—1984 c 209: See note following RCW 9.92.150.

Title 72

STATE INSTITUTIONS

Chapters

- 72.09** Department of corrections (Corrections Reform Act of 1981).
72.13 Correctional institution for male felons—Reception and classification center.
72.33 State residential schools—Residential placement, etc.
72.40 State schools for blind, deaf, sensory handicapped.
72.65 Work release program.

Chapter 72.09

DEPARTMENT OF CORRECTIONS (CORRECTIONS REFORM ACT OF 1981)

Sections

- 72.09.150 Corrections standards board—Members—Compensation and travel expenses—Chairman. (Effective July 1, 1985.)
 72.09.240 Reimbursement of employees for inmate assaults.
 72.09.250 Reimbursement of employees for inmate assaults.

72.09.150 Corrections standards board—Members—Compensation and travel expenses—Chairman. (Effective July 1, 1985.) (1) The corrections standards board shall consist of nine voting members appointed by the governor with the consent of the senate. The secretary of corrections shall serve as an ex officio member without a vote. In addition, the speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members, one from each of the two largest caucuses in their respective houses.

(2) The voting members shall serve four-year staggered terms. No member may serve more than two consecutive terms. Of the voting members, initially one-third shall be appointed for two-year terms, one-third for three-year terms, and one-third for four-year terms.

The legislative members shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(3) The voting membership of the board shall be divided so that two-thirds of the members reside west of the Cascade mountains and one-third reside east of the Cascade mountains. One-third of the members shall be elected county, city, or town officials, one-third shall be elected or appointed state officials or their designees, and one-third shall be private citizens. In 1983, the members appointed to take the positions of the persons previously appointed to the two-year terms provided under subsection (2) of this section shall have been members of the state jail commission as local government representatives on June 30, 1983. The board shall include women and members of "minority groups" as that term is commonly understood.

(4) The members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060 for nonlegislative members and under RCW 44.04.120 for legislative members.

(5) The members shall elect a chairman and such other officers as they deem necessary. [1984 c 287 § 107; 1981 c 136 § 21.]

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

72.09.240 Reimbursement of employees for inmate assaults. (1) In recognition of prison overcrowding and the hazardous nature of employment in state correctional institutions, the legislature hereby provides a supplementary program to reimburse employees of the department of corrections for some of their costs attributable to their being the victims of inmate assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the secretary of corrections, or the secretary's designee, finds that each of the following has occurred:

(a) An inmate has assaulted the employee and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the secretary, or the secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the secretary, or the secretary's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the department of corrections. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right. [1984 c 246 § 9.]

Reviser's note: Except for the words "prison overcrowding and" in the first sentence of the section above, this section is identical to RCW 72.09.250, also enacted in 1984.

Severability—1984 c 246: See note following RCW 9.94A.160.

72.09.250 Reimbursement of employees for inmate assaults. (1) In recognition of the hazardous nature of employment in state correctional institutions, the legislature hereby provides a supplementary program to reimburse employees of the department of corrections for some of their costs attributable to their being the victims of inmate assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the secretary of corrections, or the secretary's designee, finds that each of the following has occurred:

(a) An inmate has assaulted the employee and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed

in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the secretary, or the secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the secretary, or the secretary's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the department of corrections. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right. [1984 c 284 § 19.]

Reviser's note: See note following RCW 72.09.240.

Chapter 72.13

CORRECTIONAL INSTITUTION FOR MALE FELONS—RECEPTION AND CLASSIFICATION CENTER

Sections

72.13.150 Persons to be received for classification and placement.

Employment of dental hygienist without supervision of dentist authorized in state institutions: RCW 18.29.056.

72.13.150 Persons to be received for classification and placement. The superintendent of the correctional institution established by this chapter shall receive all male persons convicted of a felony by the superior court and committed by the superior court to the reception center for classification and placement in such facility as the secretary shall designate, and all persons transferred thereto by the secretary from the state reformatory and state penitentiary, and other correctional facilities of the department. The superintendent shall only receive prisoners for classification and study in the institution upon presentation of certified copies of a judgment, sentence, and order of commitment of the superior court and the statement of the prosecuting attorney, along with other reports as may have been made in reference to each individual prisoner. [1984 c 114 § 4; 1979 c 141 § 208; 1959 c 214 § 15.]

Chapter 72.33
STATE RESIDENTIAL SCHOOLS—
RESIDENTIAL PLACEMENT, ETC.

Sections

72.33.660 Financial responsibility for costs of care, support and treatment of residents—Ascertainment of charges—Establishment of rates on per capita basis—Collection.

Employment of dental hygienist without supervision of dentist authorized in state institutions: RCW 18.29.056.

72.33.660 Financial responsibility for costs of care, support and treatment of residents—Ascertainment of charges—Establishment of rates on per capita basis—Collection. The charges for care, support and treatment as provided in RCW 72.33.655 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 state residential schools 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 34.04 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 72.33.650 through 72.33.700, which may be enforced by civil action instituted by the attorney general within or without the state. [1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3.]

Chapter 72.40

**STATE SCHOOLS FOR BLIND, DEAF, SENSORY
HANDICAPPED**

Sections

72.40.040 Who may be admitted.

Employment of dental hygienist without supervision of dentist authorized in state institutions: RCW 18.29.056.

72.40.040 Who may be admitted. The schools shall be free to residents of the state between the ages of five and twenty-one years until the 1984–85 school year, between the ages of four and twenty-one years commencing with the 1984–85 school year, and between the ages of three and twenty-one years commencing with the 1985–86 school year, and who are blind or deaf, or otherwise sensory handicapped, and who are free from loathsome or contagious diseases: *Provided*, That students over the age of twenty-one years, who are otherwise qualified may be retained at the school, if in the discretion of the superintendent in consultation with the

faculty they are proper persons to receive further training given at the school and the facilities are adequate for proper care, education, and training. [1984 c 160 § 4; 1977 ex.s. c 80 § 68; 1969 c 39 § 1; 1959 c 28 § 72.40-.040. Prior: 1955 c 260 § 1; 1909 c 97 p 258 § 3; 1903 c 140 § 1; 1897 c 118 § 229; 1886 p 136 § 2; RRS § 4647.]

Severability—1984 c 160: See note following RCW 28A.13.010.

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 72.65

WORK RELEASE PROGRAM

Sections

72.65.020 Places of confinement—Extension of limits authorized, conditions—Application of section.
72.65.030 Application of prisoner to participate in program, contents—Application of section.
72.65.040 Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication—Application of section.

72.65.020 Places of confinement—Extension of limits authorized, conditions—Application of section.

(1) The secretary is authorized to extend the limits of the place of confinement and treatment within the state of any prisoner convicted of a felony, sentenced to a term of confinement and treatment by the superior court, and serving such sentence in a state correctional institution under the jurisdiction of the department, by authorizing a work release plan for such prisoner, permitting him, under prescribed conditions, to do any of the following:

(a) Work at paid employment.

(b) Participate in a vocational training program: *Provided*, That the tuition and other expenses of such a vocational training program shall be paid by the prisoner, by someone in his behalf, or by the department: *Provided further*, That any expenses paid by the department shall be recovered by the department pursuant to the terms of RCW 72.65.050.

(c) Interview or make application to a prospective employer or employers, or enroll in a suitable vocational training program.

Such work release plan of any prison shall require that he be confined during the hours not reasonably necessary to implement the plan, in (1) a state correctional institution, (2) a county or city jail, which jail has been approved after inspection pursuant to RCW 70.48-.050, or (3) any other appropriate, supervised facility, after an agreement has been entered into between the department and the appropriate authorities of the facility for the housing of work release prisoners.

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [1984 c 209 § 28; 1979 ex.s. c 160 § 1; 1979 c 141 § 275; 1967 c 17 § 2.]

Reviser's note: 1981 c 137 § 38 repealed this section, effective July 1, 1984. However, the repeal was rescinded and the section was reinstated by 1984 c 209 § 31, effective June 30, 1984.

Effective dates—1984 c 209: See note following RCW 9.92.150.

72.65.030 Application of prisoner to participate in program, contents—**Application of section.** (1) Any prisoner serving a sentence in a state correctional institution may make application to participate in the work release program to the superintendent of the institution in which he is confined. Such application shall set forth the name and address of his proposed employer or employers or shall specify the vocational training program, if any, in which he is enrolled. It shall include a statement to be executed by such prisoner that if his application be approved he agrees to abide faithfully by all terms and conditions of the particular work release plan adopted for him. It shall further set forth such additional information as the department or the secretary shall require.

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [1984 c 209 § 29; 1979 c 141 § 276; 1967 c 17 § 3.]

Reviser's note: 1981 c 137 § 38 repealed this section, effective July 1, 1984. However, the repeal was rescinded and the section was reinstated by 1984 c 209 § 31, effective June 30, 1984.

Effective dates—1984 c 209: See note following RCW 9.92.150.

72.65.040 Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication—Application of section. (1) The superintendent of the state correctional institution in which a prisoner who has made application to participate in the work release program is confined, after careful study of the prisoner's conduct, attitude and behavior within the institutions under the jurisdiction of the department, his criminal history and all other pertinent case history material, shall determine whether or not there is reasonable cause to believe that the prisoner will honor his trust as a work release participant. After having made such determination, the superintendent, in his discretion, may deny the prisoner's application, or recommend to the secretary, or such officer of the department as the secretary may designate, that the prisoner be permitted to participate in the work release program. The secretary or his designee, may approve, reject, modify, or defer action on such recommendation. In the event of approval, the secretary or his designee, shall adopt a work release plan for the prisoner, which shall constitute an extension of the limits of confinement and treatment of the prisoner when released pursuant thereto, and which shall include such terms and conditions as may be deemed necessary and proper under the particular circumstances. The plan shall be signed by the prisoner under oath that he will faithfully abide by all terms and conditions thereof. Further, as a condition, the plan shall specify where such prisoner shall be confined when not released for the purpose of the work release plan. At any time after approval has been granted to any prisoner to participate in the work release program, such approval may be revoked, and if

the prisoner has been released on a work release plan, he may be returned to a state correctional institution, or the plan may be modified, in the sole discretion of the secretary or his designee. Any prisoner who has been initially rejected either by the superintendent or the secretary or his designee, may reapply for permission to participate in a work release program after a period of time has elapsed from the date of such rejection. This period of time shall be determined by the secretary or his designee, according to the individual circumstances in each case.

(2) This section applies only to persons sentenced for crimes that were committed before July 1, 1984. [1984 c 209 § 30; 1979 c 141 § 277; 1967 c 17 § 4.]

Reviser's note: 1981 c 137 § 38 repealed this section, effective July 1, 1984. However, the repeal was rescinded and the section was reinstated by 1984 c 209 § 31, effective June 30, 1984.

Effective dates—1984 c 209: See note following RCW 9.92.150.

Title 73

VETERANS AND VETERANS' AFFAIRS

Chapters

- 73.04 General provisions.
- 73.12 Veterans' loan insurance.

Chapter 73.04

GENERAL PROVISIONS

Sections

- 73.04.100 Repealed.
- 73.04.120 Certificate stating marital status available free.

73.04.100 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

73.04.120 Certificate stating marital status available free. County clerks and county auditors, respectively, are authorized and directed to furnish free of charge to the legal representative, surviving spouse, child or parent of any deceased veteran certified copies of marriage certificates, decrees of divorce or annulment, or other documents contained in their files and to record and issue certified copies of such documents from other states, territories, or foreign countries affecting the marital status of such veteran whenever any such document shall be required in connection with any claim pending before the United States veterans' bureau or other governmental agency administering benefits to war veterans. Where these same documents are required of service personnel of the armed forces of the United States for determining entitlement to family allowances and other benefits, they shall be provided without charge by county clerks and county auditors upon request of the person in the service or his dependents. [1984 c 84 § 1; 1967 c 89 § 1; 1949 c 16 § 1; Rem. Supp. 1949 § 10758-13b.]

Chapter 73.12
VETERANS' LOAN INSURANCE

Sections
73.12.010 through 73.12.060 Repealed.

73.12.010 through 73.12.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 74
PUBLIC ASSISTANCE

Chapters

- 74.15** Agencies for care of children, expectant mothers, developmentally disabled.
74.20 Support of dependent children.
74.20A Support of dependent children—Alternative method—1971 act.
74.34 Abuse of vulnerable adults.

Adult dependent persons, abuse or neglect—Reports: Chapter 26.44 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Chapter 74.15
**AGENCIES FOR CARE OF CHILDREN,
EXPECTANT MOTHERS, DEVELOPMENTALLY
DISABLED**

Sections
74.15.030 Powers and duties of secretary.

Adult dependent persons, abuse: Chapter 26.44 RCW.

74.15.030 Powers and duties of secretary. The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure. Such investigation shall include an examination of the child abuse and neglect register established under chapter 26.44 RCW on all agencies seeking a license under this chapter. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability; and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons, and shall safeguard the information in the same manner as the child abuse registry established in RCW 26.44.070. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served.

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons.

(4) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(5) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(6) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(7) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after

consultation with the children's services advisory committee; and

(8) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons. [1984 c 188 § 5; 1982 c 118 § 6; 1980 c 125 § 1; 1979 c 141 § 355; 1977 ex.s. c 80 § 72; 1967 c 172 § 3.]

Purpose—Intent—Severability—1977 ex.s. c 80: See notes following RCW 4.16.190.

Chapter 74.20

SUPPORT OF DEPENDENT CHILDREN

Sections

74.20.040 Duty of department to enforce child support—Support enforcement services—Fees, establishment, collection, waiver.

74.20.040 Duty of department to enforce child support—Support enforcement services—Fees, establishment, collection, waiver. (1) Whenever the department of social and health services receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept applications for support enforcement services on behalf of persons who are not recipients of public assistance and may take action in appropriate cases to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Applications accepted under this section may be conditioned upon the payment of a fee as required through regulation issued by the secretary. Action may be taken under the provisions of chapter 74.20 RCW, the abandonment or nonsupport statutes, or other appropriate statutes of this state, including but not limited to remedies established in chapter 74.20A RCW, to establish and enforce said support obligations. The secretary may establish by regulation, such reasonable standards as may be necessary to limit applications for support enforcement services. Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.

(3) The secretary may collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may the fee be collected by the department of social and health services until all current support obligations have been satisfied. The secretary shall by regulation establish reasonable fees for support enforcement services and said schedule of fees shall be made available to any person obligated to pay support. The secretary

may, on showing of necessity, waive or defer any such fee.

(4) Fees, due and owing, may be collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21 RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(5) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys owed. [1984 c 260 § 29; 1982 c 201 § 20; 1973 1st ex.s. c 183 § 1; 1971 ex.s. c 213 § 1; 1963 c 206 § 3; 1959 c 322 § 5.]

Severability—1984 c 260: See RCW 26.18.900.

Chapter 74.20A

SUPPORT OF DEPENDENT CHILDREN— ALTERNATIVE METHOD—1971 ACT

Sections

74.20A.030 Department subrogated to rights for support—No collection from parents on public assistance or those with developmentally disabled children.

74.20A.270 Department claim for support moneys—Service—Answer—Hearing and review—Moneys not subject to claim.

Child support: Chapter 26.18 RCW.

74.20A.030 Department subrogated to rights for support—No collection from parents on public assistance or those with developmentally disabled children. The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a superior court order or RCW 26.16.205.

No collection shall be made from a parent or other person who is the recipient of public assistance moneys while such person or persons are in such status except as provided in RCW 74.20A.270.

No collection action shall be taken against parents of children eligible for admission to, or children who have been released from, a state school for the developmentally disabled as defined by chapter 72.33 RCW. [1984 c 260 § 40; 1979 ex.s. c 171 § 4; 1979 c 141 § 371; 1973 1st ex.s. c 183 § 4; 1971 ex.s. c 164 § 3.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

74.20A.270 Department claim for support moneys—Service—Answer—Hearing and review—Moneys not subject to claim. The secretary may issue a notice of support debt to any person, firm, corporation, association or political subdivision of the state of Washington or any officer or agent thereof who is in possession of support moneys, or who has had support moneys in his or her possession at some time in the past, which support moneys were or are claimed by the department as the property of the department by assignment, subrogation, or by operation of law or legal process under chapter 74.20A RCW, if the support moneys have not been remitted to the department as required by law.

The notice shall describe the claim of the department, stating the legal basis for the claim and shall provide sufficient detail to enable the person, firm, corporation, association or political subdivision or officer or agent thereof upon whom service is made to identify the support moneys in issue. The notice may also make inquiry as to relevant facts necessary to the resolution of the issue.

The notice may be served by certified mail, return receipt requested, or in the manner of a summons in a civil action. Upon service of the notice all moneys not yet disbursed or spent or like moneys to be received in the future are deemed to be impounded and shall be held in trust pending answer to the notice and any hearing which is requested.

The notice shall be answered under oath and in writing within twenty days of the date of service, which answer shall include true answers to the matters inquired of in the notice. The notice shall also either acknowledge the department's right to the moneys or request an administrative hearing to determine the rights to ownership of the support moneys in issue. The hearing shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department and shall be a contested case as provided for in chapter 34.04 RCW. The burden of proof to establish ownership of the support moneys claimed, including but not limited to moneys not yet disbursed or spent, is on the department.

If no answer is made within the twenty days, the department's claim shall be assessed and determined and subject to collection action as a support debt pursuant to chapter 74.20A RCW. Any such debtor may, at any time within one year from the date of service of the notice of support debt, petition the secretary or the secretary's designee for a hearing upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60. A copy of the petition shall also be served on the department. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on any appeal made pursuant to chapter 34.04 RCW. Any moneys held and/or taken by collection action prior to the date of any such stay and any support moneys claimed by the department, including moneys to be received in the future to which the department may have a

claim, shall be held in trust pending final decision and appeal, if any, to be disbursed in accordance with the final decision. The secretary or the secretary's designee shall condition the stay to provide for the trust.

If the hearing is granted it shall be an administrative hearing limited to the determination of the ownership of the moneys claimed in the notice of debt. The right to the hearing is conditioned upon holding of any funds not yet disbursed or expended or to be received in the future in trust pending the final order in these proceedings or during any appeal made to the courts. The secretary or the secretary's designee shall enter an appropriate order providing for the terms of the trust.

The hearing shall be a contested case as provided for in chapter 34.04 RCW and shall be held pursuant to this section, chapter 34.04 RCW, and the rules of the department. The hearing shall be promptly scheduled within thirty days from the date of receipt of the answer by the department. The hearing shall be conducted by a duly qualified hearing examiner appointed for that purpose. Hearings may be held in the county of residence of the debtor or other place convenient to the debtor.

If the debtor fails to appear at the hearing, the hearing examiner shall, upon showing of valid service, enter an initial decision and order declaring the amount of support moneys, as claimed in the notice, to be assessed and determined and subject to collection action. Within thirty days of entry of the decision and order the debtor may petition the secretary or the secretary's designee to vacate the decision and order upon a showing of any of the grounds enumerated in RCW 4.72.010 or superior court civil rule 60.

The hearing and review process shall be as provided for in RCW 74.20A.055.

If, at any time, the superior court enters judgment for an amount of debt at variance with the amount determined by the final order in these proceedings, the judgment shall supersede the final order in these proceedings. Any debt determined by the superior court in excess of the amount determined by the final order in these proceedings shall be the property of the department as assigned under 42 U.S.C. 602(A)(26)(a), RCW 74.20.040, 74.20A.250, 74.20.320, or 74.20.330. The department may, despite any final order in these proceedings, take action pursuant to chapters 74.20 or 74.20A RCW to obtain such a judgment or to collect moneys determined by such a judgment to be due and owing.

If public assistance moneys have been paid to a parent for the benefit of that parent's minor dependent children, debt under this chapter shall not be incurred by nor at any time be collected from that parent because of that payment of assistance. Nothing in this section prohibits or limits the department from acting pursuant to RCW 74.20.320 and this section to assess a debt against a recipient or ex-recipient for receipt of support moneys paid in satisfaction of the debt assigned under RCW 74.20.330 which have been assigned to the department but were received by a recipient or ex-recipient from another responsible parent and not remitted to the department. To collect these wrongfully retained funds

from the recipient, the department may not take collection action in excess of ten percent of the grant payment standard during any month the public assistance recipient remains in that status unless required by federal law. Payments not credited against the department's debt pursuant to RCW 74.20.101 may not be assessed or collected under this section. [1984 c 260 § 41; 1979 ex.s. c 171 § 18.]

Severability—1984 c 260: See RCW 26.18.900.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

Chapter 74.34

ABUSE OF VULNERABLE ADULTS

Sections

74.34.010	Legislative findings—Intent.
74.34.020	Definitions.
74.34.030	Reports—Duty to make. (Effective July 1, 1985.)
74.34.040	Reports—Oral and written—Identity confidential—Contents.
74.34.050	Immunity from liability.
74.34.060	Response to reports—Services—Consent.
74.34.070	Response to reports—Information required—Co-operative agreements for services.
74.34.080	Injunctions.
74.34.090	Data collection system—Confidentiality.
74.34.900	Severability—1984 c 97.

Adult dependent persons, abuse: Chapter 26.44 RCW.

Patients in nursing homes and hospitals, abuse: Chapter 70.124 RCW.

74.34.010 Legislative findings—Intent. The legislature finds that there are a number of adults sixty years of age or older who lack the ability to perform or obtain those services necessary to maintain or establish their well-being. It is the intent of the legislature to prevent or remedy the abuse, neglect, exploitation, or abandonment of persons sixty years of age or older who have a functional, mental, or physical inability to care for or protect themselves by providing these persons with the least-restrictive services such as home care and preventing or reducing inappropriate institutional care. The legislature finds that it is in the interests of the public health, safety, and welfare of the people of the state to provide a procedure for identifying these persons and providing the services necessary for their well-being. [1984 c 97 § 7.]

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

(1) "Abandonment" means leaving a vulnerable adult without the means or ability to obtain food, clothing, shelter, or health care.

(2) "Abuse" means an act of physical or mental mistreatment or injury which harms or threatens a person through action or inaction by another individual.

(3) "Consent" means express written consent granted after the person has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(4) "Department" means the department of social and health services.

(5) "Exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(6) "Neglect" means a pattern of conduct resulting in deprivation of care necessary to maintain minimum physical and mental health.

(7) "Secretary" means the secretary of social and health services.

(8) "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. [1984 c 97 § 8.]

74.34.030 Reports—Duty to make. (Effective July 1, 1985.) When a social worker, employee of the department, or health care practitioner licensed under Title 18 RCW, including but not limited to doctors, nurses, psychologists, and pharmacists, has reasonable cause to believe that a vulnerable adult has suffered abuse, exploitation, neglect, or abandonment, the person shall report the incident, or cause a report to be made, to the department. [1984 c 97 § 9.]

Effective date—1984 c 97 § 9: "Section 9 of this act shall take effect on July 1, 1985." [1984 c 97 § 16.] Section 9 is codified as RCW 74.34.030.

74.34.040 Reports—Oral and written—Identity confidential—Contents. A person making a report under RCW 74.34.030 shall make an immediate oral report to the department and shall also make a written report as soon as practicable. Unless there is a judicial proceeding or the person consents, the identity of the person making the report is confidential. The reports shall contain the following information if known:

- (1) Identification of the vulnerable adult;
- (2) The nature and extent of the suspected abuse, neglect, exploitation, or abandonment;
- (3) Evidence of previous abuse, neglect, exploitation, or abandonment;
- (4) The name and address of the person making the report; and
- (5) Any other helpful information. [1984 c 97 § 10.]

74.34.050 Immunity from liability. A person participating in good faith in making a report under this chapter or testifying about the abuse, neglect, abandonment, or exploitation of a vulnerable adult in a judicial proceeding under this chapter is immune from liability resulting from the report or testimony. [1984 c 97 § 11.]

74.34.060 Response to reports—Services—Consent. The department shall insure that all reports made under this chapter are responded to. If the department finds that an incident of abuse, neglect, exploitation, or abandonment has occurred, the department shall insure that appropriate protective services are provided to the vulnerable adult with the consent of the vulnerable adult. The services shall not be provided if the vulnerable adult withdraws or refuses consent. If the department determines that the vulnerable adult lacks

the ability or capacity to consent, the department may bring an action under chapter 11.88 RCW as an interested person. [1984 c 97 § 12.]

74.34.070 Response to reports—Information required—Cooperative agreements for services. In responding to reports of abuse, exploitation, neglect, or abandonment under this chapter, the department shall provide information to the elderly person on protective services available to the person and inform the person of the right to refuse such services. The department shall develop cooperative agreements with community-based agencies servicing the abused elderly. The agreements shall cover such subjects as the appropriate roles and responsibilities of the department and community-based agencies in identifying and responding to reports of elderly abuse, the provision of case-management services, standardized data collection procedures, and related coordination activities. [1984 c 97 § 13.]

74.34.080 Injunctions. If access is denied to an employee of the department seeking to investigate an allegation of abuse, neglect, exploitation, or abandonment of a vulnerable adult by an individual, the department may seek an injunction to prevent interference with the investigation. The court shall issue the injunction if the department shows that:

(1) There is reasonable cause to believe that the person is a vulnerable adult and is or has been abused, neglected, exploited, or abandoned; and

(2) The employee of the department seeking to investigate the report has been denied access. [1984 c 97 § 14.]

74.34.090 Data collection system—Confidentiality. The department shall maintain a system for statistical data collection, accessible for bona fide research only as the department by rule prescribes. The identity of any person is strictly confidential. [1984 c 97 § 15.]

74.34.900 Severability—1984 c 97. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 97 § 18.]

Title 75

FOOD FISH AND SHELLFISH

Chapters

- 75.08 Administration.**
- 75.10 Enforcement—Penalties.**
- 75.12 Unlawful acts.**
- 75.20 Construction projects in state waters.**
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- 75.25 Recreational licenses.**
- 75.28 Commercial licenses.**
- 75.44 Program to purchase fishing vessels and licenses.**

75.52 Volunteer cooperative fish and wildlife enhancement program.

Development of intensive management plan for geoducks: RCW 79.96.906.

Chapter 75.08

ADMINISTRATION

(Formerly: Administration and enforcement)

Sections

- 75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish—Unanticipated receipts. (Effective July 1, 1985.)

75.08.230 Disposition of moneys collected—Proceeds from sale of food fish or shellfish—Unanticipated receipts. (Effective July 1, 1985.) (1) Except as provided in this section, state and county officers receiving the following moneys shall deposit them in the state general fund:

- (a) The sale of licenses required under this title;
 - (b) The sale of property seized or confiscated under this title;
 - (c) Fines and forfeitures collected under this title;
 - (d) The sale of real or personal property held for department purposes;
 - (e) Rentals or concessions of the department;
 - (f) Moneys received for damages to food fish, shellfish or department property; and
 - (g) Gifts.
- (2) The director shall make weekly remittances to the state treasurer of moneys collected by the department.
- (3) All fines and forfeitures collected or assessed by a *justice court for a violation of this title or rule of the director shall be remitted as provided in chapter 3.62 RCW.

(4) Proceeds from the sale of food fish or shellfish taken in test fishing conducted by the department, to the extent that these proceeds exceed the estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270 to reimburse the department for unanticipated costs for test fishing operations in excess of the allowance in the budget approved by the legislature.

(5) Proceeds from the sale of salmon and salmon eggs by the department, to the extent these proceeds exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for hatchery operations partially or wholly financed by sources other than state general revenues or for purposes of processing human consumable salmon for disposal.

(6) Moneys received by the director under RCW 75.08.045, to the extent these moneys exceed estimates in the budget approved by the legislature, may be allocated as unanticipated receipts under RCW 43.79.270. Allocations under this subsection shall be made only for the specific purpose for which the moneys were received, unless the moneys were received in settlement of a claim for damages to food fish or shellfish, in which case the

moneys may be expended for the conservation of these resources. [1984 c 258 § 332; 1983 1st ex.s. c 46 § 23; 1979 c 151 § 175; 1977 ex.s. c 327 § 33; 1975 1st ex.s. c 223 § 1; 1969 ex.s. c 199 § 31; 1969 ex.s. c 16 § 1; 1965 ex.s. c 72 § 2; 1955 c 12 § 75.08.230. Prior: 1951 c 271 § 2; 1949 c 112 § 25; Rem. Supp. 1949 § 5780-223.]

***Reviser's note:** Reference to "justice court" to be construed as meaning "district court"; see RCW 3.30.015.

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.

Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.25.100.

Chapter 75.10

ENFORCEMENT—PENALTIES

Sections

75.10.140 Revocation of geoduck licenses.

75.10.140 Revocation of geoduck licenses. (1) In addition to the penalties prescribed in RCW 75.10.110 and 75.10.120, the director may revoke geoduck diver licenses or geoduck tract licenses held by a person if:

(a) Within a five-year period that person is convicted or has an unvacated bail forfeiture for two or more violations of this title or rules of the director relating to geoduck licensing or harvesting; or

(b) The department of natural resources suspended or canceled the lease or harvesting agreement under RCW 79.96.080.

(2) When a geoduck tract licensee permits a person to harvest geoducks on that tract, each violation by that person of this title or rules of the director relating to geoduck licensing or harvesting resulting in: (a) Conviction or unvacated forfeiture of bail; or (b) suspension or cancellation of the lease or harvesting agreement by the department of natural resources under RCW 79.96.080; shall be imputed to the tract licensee for the purpose of computing the number of violations by the tract licensee under subsection (1) of this section.

(3) Except as provided in subsection (4) of this section, the director shall not issue a geoduck diver license or geoduck tract license to a person who has had a license revoked. This prohibition is effective for one year after the revocation.

(4) Appeals of revocations under this section may be taken under the judicial review provisions of chapter 34.04 RCW. If the license revocation is determined to be invalid, the director shall reissue the license to that person. [1984 c 80 § 4; 1983 1st ex.s. c 46 § 45; 1979 ex.s. c 141 § 7. Formerly RCW 75.28.288.]

Chapter 75.12

UNLAWFUL ACTS

(Formerly: Taking of food fish, shellfish)

Sections

75.12.132 Commercial net fishing for salmon in tributaries of Columbia river.

75.12.132 Commercial net fishing for salmon in tributaries of Columbia river. (1) It is unlawful to fish for or take salmon commercially with a net within the waters of the tributaries and sloughs described in subsection (2) of this section which flow into or are connected with the Columbia river.

(2) The director shall adopt rules defining geographical boundaries of the following Columbia river tributaries and sloughs:

- (a) Washougal river;
- (b) Camas slough;
- (c) Lewis river;
- (d) Kalama river;
- (e) Cowlitz river;
- (f) Elokomin river;
- (g) Elokomin sloughs;
- (h) Skamokawa sloughs;
- (i) Grays river;
- (j) Deep river;
- (k) Grays bay.

(3) The director may authorize commercial net fishing for salmon in the tributaries and sloughs from September 1 to November 30 if the time, areas and level of effort are regulated in order to maximize the recreational fishing opportunity while minimizing excess returns of fish to hatcheries. The director shall not authorize commercial net fishing if a significant catch of steelhead would occur. [1984 c 80 § 5; 1983 c 245 § 1.]

Chapter 75.20

CONSTRUCTION PROJECTS IN STATE WATERS

(Formerly: Restrictions as to dams, ditches, and other uses of waters and waterways)

Sections

75.20.300 Expediting flood-control and dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section.

75.20.300 Expediting flood-control and dredging operations in rivers affected by Mt. St. Helens eruption—Fish resource preservation—Expiration of section. (1) The legislature intends to expedite flood-control and dredging operations in those rivers affected by the May 1980 eruption of Mt. St. Helens, while continuing to protect the fish resources of these rivers.

(2) The director of fisheries and director of game shall process hydraulic project applications submitted under RCW 75.20.100 within fifteen working days of receipt of the application. This requirement is only applicable to flood control and dredging projects located in the Toutle river, in the Cowlitz river from River Mile 22 to the confluence with the Columbia, and the volcano-affected tributaries of the Cowlitz and Toutle river and volcano-affected areas of the Columbia river.

(3) For the purposes of this section, the emergency provisions of RCW 75.20.100 may be initiated by the county legislative authority if the project is necessary to protect human life or property from flood hazards, including:

(a) Flood fight measures necessary to provide protection during a flood event; or

(b) Measures necessary to reduce or eliminate a potential flood threat when other alternative measures are not available or cannot be completed prior to the expected flood threat season; or

(c) Measures which must be initiated and completed within an immediate period of time and for which processing of the request through normal methods would cause a delay to the project and such delay would significantly increase the potential for damages from a flood event.

This section expires on June 30, 1988. [1984 c 80 § 3; 1983 1st ex.s. c 46 § 77; 1983 1st ex.s. c 1 § 7; 1982 c 7 § 8.]

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.

**Chapter 75.24
SHELLFISH**

Sections

75.24.100 Geoduck clams, commercial harvesting—License—Gear—Director may impose license limitations—Compliance with federal safety rules (OSHA).

75.24.100 Geoduck clams, commercial harvesting—License—Gear—Director may impose license limitations—Compliance with federal safety rules (OSHA). (1) The director may issue licenses, with the approval of the commissioner of public lands, for the commercial harvesting of geoduck clams from specific tracts of beds of navigable waters for which harvest rights have been granted by the department of natural resources. The director shall not authorize commercial harvesting on bottoms which are shallower than eighteen feet below mean lower low water (0.0 ft.), or which lie in an area bounded by the line of ordinary high tide (mean high tide) and a line two hundred yards seaward from and parallel to the line of ordinary high tide. If the director determines that the number of units of gear is sufficient to harvest the known available crop and that additional units of gear might prove damaging to the resource or its habitat, the director may suspend the issuance of additional licenses until the director determines there is need for additional units of gear to achieve a sustained harvest.

(2) Commercial geoduck harvesting shall be done with a hand-held, manually operated water jet or suction device guided and controlled from under water by a diver. Periodically, the director shall determine the effect of each type or unit of gear upon the geoduck population or the substrate they inhabit. The director may require modification of the gear or stop its use if it is being operated in a wasteful or destructive manner or if its operation may cause permanent damage to the bottom or adjacent shellfish populations.

(3) A person, including the person's agents or representatives, who holds a license under subsection (1) of

this section shall comply with all applicable commercial diving safety regulations adopted by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as such law exists on May 8, 1979 (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.). A violation of these regulations is a violation of this subsection. For the purposes of this section, persons who dive for geoducks are "employees" as defined by the federal occupational safety and health act. A violation of this subsection is grounds for suspension or revocation of the license following a hearing as provided for in chapter 34.04 RCW. A license shall not be suspended or revoked if the violation has been corrected within ten days of receipt of written notice of the violation. If there is a substantial probability that a violation of the commercial diving standards could result in death or serious physical harm to a person engaged in harvesting geoduck clams, the department shall suspend the license immediately until the violation has been corrected. If the licensee is the holder of a tract license and contracts with another person for the harvesting of geoducks, the license shall not be suspended or canceled if the licensee terminates its business relationship with such entity until compliance with this subsection is secured. [1984 c 80 § 2. Prior: 1983 1st ex.s. c 46 § 85; 1983 c 3 § 193; 1979 ex.s. c 141 § 1; 1969 ex.s. c 253 § 1.]

Liberal construction—1969 ex.s. c 253: "The provisions of this act shall be liberally construed." [1969 ex.s. c 253 § 5.]

Severability—1969 ex.s. c 253: "If any provisions of this 1969 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." [1969 ex.s. c 253 § 6.]

Designation of aquatic lands for geoduck harvesting: RCW 79.96.085.

Tract license for harvesting geoducks: RCW 75.28.287.

**Chapter 75.25
RECREATIONAL LICENSES
(Formerly: Razor clam digging)**

Sections

75.25.015 Hood Canal shrimp license—Required—Fees.
75.25.130 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Issuance—Dealer's fee—Rules.
75.25.140 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Nontransferable—Enforcement provisions.
75.25.150 Unlawful possession of razor clams, salmon, or shrimp.
75.25.160 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Penalties.

75.25.015 Hood Canal shrimp license—Required—Fees. (1) A Hood Canal shrimp license is required to take or possess shrimp taken for personal use from that portion of Hood Canal lying south of the Hood Canal floating bridge.

(2) The annual fees for Hood Canal shrimp licenses are:

(a) For a resident license, five dollars, except that a person seventy years of age or older may pay a one-time fee of five dollars;

(b) For a nonresident license, fifteen dollars. [1984 c 80 § 6; 1983 1st ex.s. c 31 § 1.]

Effective date—1983 1st ex.s. c 31: "This act shall take effect January 1, 1984." [1983 1st ex.s. c 31 § 4.]

Commercial Hood Canal shrimp endorsement: RCW 75.28.134.

75.25.130 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Issuance—Dealer's fee—Rules. Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses shall be issued only under authority of the director. The director may authorize license dealers to issue the licenses and collect the license fees. In addition to the license fee, license dealers may charge a dealer's fee of twenty-five cents for salmon angling licenses and fifty cents for Hood Canal shrimp licenses and razor clam licenses. The dealer's fee may be retained by the license dealer.

The director shall adopt rules for the issuance of salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses and for the collection, payment, and handling of license fees and dealers fees. [1984 c 80 § 7; 1983 1st ex.s. c 46 § 97; 1977 ex.s. c 327 § 12. Formerly RCW 75.28.620.]

Declaration of state policy—Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.25.100.

75.25.140 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Nontransferable—Enforcement provisions. (1) Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses are not transferable. Upon request of a fisheries patrol officer or ex officio fisheries patrol officer, a person digging for or possessing razor clams or fishing for or possessing salmon for personal use or taking or possessing shrimp for personal use in that portion of Hood Canal lying south of the Hood Canal floating bridge shall exhibit the required license and write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person does not have a license or is not the person named on the license.

(2) The razor clam license shall be visible on the licensee while digging for razor clams. [1984 c 80 § 8; 1983 1st ex.s. c 46 § 98; 1980 c 78 § 135; 1977 ex.s. c 327 § 15. Formerly RCW 75.28.650.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Declaration of state policy—Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.25.100.

75.25.150 Unlawful possession of razor clams, salmon, or shrimp. It is unlawful to dig for or possess razor clams, fish for or possess anadromous salmon, or take or possess shrimp without the licenses required by this chapter. [1984 c 80 § 9; 1983 1st ex.s. c 46 § 99.]

75.25.160 Salmon angling licenses, Hood Canal shrimp licenses, and razor clam licenses—Penalties. A person who violates a provision of this chapter or who knowingly falsifies information required for the issuance

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of a salmon angling license, Hood Canal shrimp license, or razor clam license is guilty of a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. [1984 c 80 § 10; 1983 1st ex.s. c 46 § 100; 1977 ex.s. c 327 § 16. Formerly RCW 75.28.660.]

Declaration of state policy—Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.25.100.

Chapter 75.28

COMMERCIAL LICENSES

(Formerly: Licenses)

Sections

75.28.116 Salmon single delivery permit—Fee.

75.28.116 Salmon single delivery permit—Fee. The owner of a commercial salmon fishing vessel which is not qualified for a license or permit under RCW 75.30.120 is required to obtain a salmon single delivery permit in order to make one landing of salmon taken in offshore waters. The director shall not issue a salmon single delivery permit unless, as determined by the director, a bona fide emergency exists. The permit fee is one hundred dollars for residents and nonresidents. [1984 c 80 § 1. Prior: 1983 1st ex.s. c 46 § 116; 1983 c 297 § 1; 1977 ex.s. c 327 § 4; 1974 ex.s. c 184 § 3. Formerly RCW 75.28.460.]

Legislative intent—Funding of salmon enhancement facilities—Use of license fees—1977 ex.s. c 327: See note following RCW 75.48.120.

Severability—Effective date—1977 ex.s. c 327: See notes following RCW 75.25.100.

Legislative intent—Severability—1974 ex.s. c 184: See notes following RCW 75.30.120.

Chapter 75.44

PROGRAM TO PURCHASE FISHING VESSELS AND LICENSES

(Formerly: Loan assistance to commercial fishermen)

Sections

75.44.110 Program authorized—Conditions.

75.44.160 Repealed.

75.44.110 Program authorized—Conditions. The department may purchase commercial fishing vessels and appurtenant gear, and the current state commercial fishing licenses, delivery permits, and charter boat licenses if the license or permit holder was substantially restricted in fishing as a result of compliance with United States of America et al. v. State of Washington et al., Civil No. 9213, United States District Court for Western District of Washington, February 12, 1974, and *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon, 1969), as amended, affirmed, and remanded 529 F. 2d 570 (9th Cir., 1976).

The department shall not purchase a vessel without also purchasing all current Washington commercial fishing licenses and delivery permits and charter boat licenses issued to the vessel or its owner. The department may purchase current licenses and delivery permits

without purchasing the vessel. [1984 c 67 § 1; 1983 1st ex.s. c 46 § 156; 1979 ex.s. c 43 § 1; 1977 ex.s. c 230 § 4; 1975 1st ex.s. c 183 § 4. Formerly RCW 75.28.510.]

Legislative finding and intent—1975 1st ex.s. c 183: See note following RCW 75.44.100.

75.44.160 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 75.52

VOLUNTEER COOPERATIVE FISH AND WILDLIFE ENHANCEMENT PROGRAM

Sections

75.52.010	Legislative findings—Departments of fisheries and game to administer cooperative enhancement program.
75.52.020	Definitions.
75.52.030	Cooperative projects—Types.
75.52.040	Duties of department.
75.52.050	Director to establish rules—Subjects.
75.52.060	Agreements for cooperative projects—Duration.
75.52.070	Duties of volunteer group.
75.52.080	Application of chapter.
75.52.900	Severability—1984 c 72.

75.52.010 Legislative findings—Departments of fisheries and game to administer cooperative enhancement program. The fish and game resources of the state benefit by the contribution of volunteer recreational and commercial fishing organizations, schools, and other volunteer groups in cooperative projects under agreement with the department of fisheries or the department of game. These projects provide educational opportunities, improve the communication between the natural resources agencies and the public, and increase the fish and game resources of the state. In an effort to increase these benefits and realize the full potential of cooperative projects, the department of fisheries and the department of game each shall administer a cooperative fish and wildlife enhancement program and enter agreements with volunteer groups relating to the operation of cooperative projects. [1984 c 72 § 1.]

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

(1) "Volunteer group" means any person or group of persons interested in or party to an agreement with the department of fisheries or the department of game relating to a cooperative fish or game project.

(2) "Cooperative project" means a project conducted by a volunteer group that will benefit the fish, shellfish, game bird, nongame wildlife, or game animal resources of the state and for which the benefits of the project, including fish and game reared and released, are available to all citizens of the state. Indian tribes may elect to participate in cooperative fish and wildlife projects with the department.

(3) "Department" means either the department of fisheries or the department of game, whichever is responsible for managing the species of fish or game most affected by the cooperative project. [1984 c 72 § 2.]

75.52.030 Cooperative projects—Types. The department shall encourage and support the development and operation of cooperative projects of the following types:

(1) Cooperative food fish and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Cooperative fish habitat improvement projects, including but not limited to fish migration improvement, spawning bed rehabilitation, habitat restoration, reef construction, lake fertilization, pond construction, pollution abatement, and endangered stock protection;

(3) Cooperative fish or game research projects if the project is clearly of a research nature and if the results are readily available to the public;

(4) Cooperative game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding;

(5) Cooperative nongame wildlife projects, including but not limited to habitat improvement and restoration, nest box installation, establishment of wildlife interpretive areas or facilities, pollution abatement, supplemental feeding, and endangered species preservation and enhancement; and

(6) Cooperative information and education projects, including but not limited to landowner relations, outdoor ethics, natural history of Washington's fish, shellfish, and wildlife, and outdoor survival. [1984 c 72 § 3.]

75.52.040 Duties of department. (1) The department shall:

(a) Encourage and support the establishment of cooperative agreements for the development and operation of cooperative food fish, shellfish, game fish, game bird, game animal, and nongame wildlife projects, and projects which provide an opportunity for volunteer groups to become involved in resource and habitat-oriented activities. All cooperative projects shall be fairly considered in the approval of cooperative agreements;

(b) Identify regions and species or activities that would be particularly suitable for cooperative projects providing benefits compatible with department goals;

(c) Determine the availability of rearing space at operating facilities or of net pens, egg boxes, portable rearing containers, incubators, and any other rearing facilities for use in cooperative projects, and allocate them to volunteer groups as fairly as possible;

(d) Exempt volunteer groups from payment of fees to the department for activities related to the project;

(e) Annually report to the legislature on accepted and rejected cooperative agreements, production, costs, and benefits of the cooperative program;

(f) Publicize the cooperative program;

(g) Not substitute a new cooperative project for any part of the department's program unless mutually agreeable to the department and volunteer group;

(h) Not approve agreements that are incompatible with legally existing land, water, or property rights.

(2) The department may, when requested, provide to volunteer groups its available professional expertise and assist the volunteer group to evaluate its project. [1984 c 72 § 4.]

75.52.050 Director to establish rules—Subjects. The director of each department shall establish by rule:

(1) The procedure for entering a cooperative agreement and the application forms for a permit to release fish or wildlife required by RCW 75.08.295 or 77.16-.150. The procedure shall indicate the information required from the volunteer group as well as the process of review by the department. The process of review shall include the means to coordinate with other agencies and Indian tribes when appropriate and to coordinate the review of any necessary hydraulic permit approval applications.

(2) The procedure for providing within forty-five days of receipt of a proposal a written response to the volunteer group indicating the date by which an acceptance or rejection of the proposal can be expected, the reason why the date was selected, and a written summary of the process of review. The response should also include any suggested modifications to the proposal which would increase its likelihood of approval and the date by which such modified proposal could be expected to be accepted. If the proposal is rejected, the department must provide in writing the reasons for rejection. The volunteer group may request the director or the director's designee to review information provided in the response.

(3) The priority of the uses to which eggs, seed, juveniles, or brood stock are put. Use by cooperative projects shall be second in priority only to the needs of programs of the department or of other public agencies within the territorial boundaries of the state. Sales of eggs, seed, juveniles, or brood stock have a lower priority than use for cooperative projects.

(4) The procedure for notice in writing to a volunteer group of cause to revoke the agreement for the project and the procedure for revocation. Revocation shall be documented in writing to the volunteer group. Cause for revocation may include: (a) The unavailability of adequate biological or financial resources; (b) the development of unacceptable biological or resource management conflicts; or (c) a violation of agreement provisions. Notice of cause to revoke for a violation of agreement provisions may specify a reasonable period of time within which the volunteer group must comply with any violated provisions of the agreement.

(5) An appropriate method of distributing among volunteer groups fish, bird, or animal food or other supplies available for the program. [1984 c 72 § 5.]

75.52.060 Agreements for cooperative projects—Duration. Agreements under this chapter may be for up to five years, with the department attempting to maximize the duration of each cooperative agreement. The duration of the agreement should reflect the financial and volunteer commitment and the stability of the volunteer group as well as the department's expectation of

resource availability and project contributions to the resource. [1984 c 72 § 6.]

75.52.070 Duties of volunteer group. (1) The volunteer group shall:

(a) Provide care and diligence in conducting the cooperative project; and

(b) Maintain accurately the required records of the project on forms provided by the department.

(2) The volunteer group shall acknowledge that fish and game reared in cooperative projects are public property and must be handled and released for the benefit of all citizens of the state. The fish and game are to remain public property until reduced to private ownership under rules of the department. [1984 c 72 § 7.]

75.52.080 Application of chapter. This chapter applies to cooperative projects which were in existence on June 7, 1984, or which require no further funding. Implementation of this chapter for new projects requiring funding shall be to the extent that funds are available from the aquatic land enhancement account. [1984 c 72 § 8.]

75.52.900 Severability—1984 c 72. 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 72 § 9.]

Title 76

FORESTS AND FOREST PRODUCTS

Chapters

76.09 Forest practices.

76.36 Marks and brands.

76.40 Log patrols.

Chapter 76.09

FOREST PRACTICES

Sections

76.09.030 Forest practices board—Created—Membership—Terms—Vacancies—Meetings—Compensation, travel expenses—Staff. (Effective July 1, 1985.)

76.09.220 Forest practices appeals board—Compensation—Travel expenses—Chairman—Office—Quorum—Powers and duties—Jurisdiction—Review. (Effective July 1, 1985.)

76.09.030 Forest practices board—Created—Membership—Terms—Vacancies—Meetings—Compensation, travel expenses—Staff. (Effective July 1, 1985.) (1) There is hereby created the forest practices board of the state of Washington as an agency of state government consisting of members as follows:

(a) The commissioner of public lands or his designee;

(b) The director of the department of commerce and economic development or his designee;

(c) The director of the department of agriculture or his designee;

(d) The director of the department of ecology or his designee;

(e) An elected member of a county legislative authority appointed by the governor: *Provided*, That such member's service on the board shall be conditioned on his continued service as an elected county official; and

(f) Six members of the general public appointed by the governor, one of whom shall be an owner of not more than five hundred acres of forest land, and one of whom shall be an independent logging contractor.

(2) The members of the initial board appointed by the governor shall be appointed so that the term of one member shall expire December 31, 1975, the term of one member shall expire December 31, 1976, the term of one member shall expire December 31, 1977, the terms of two members shall expire December 31, 1978, and the terms of two members shall expire December 31, 1979. Thereafter, each member shall be appointed for a term of four years. Vacancies on the board shall be filled in the same manner as the original appointments. Each member of the board shall continue in office until his successor is appointed and qualified. The commissioner of public lands or his designee shall be the chairman of the board.

(3) The board shall meet at such times and places as shall be designated by the chairman or upon the written request of the majority of the board. The principal office of the board shall be at the state capital.

(4) Members of the board, except public employees and elected officials, shall be compensated in accordance with RCW 43.03.240 and in addition they shall be entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060.

(5) The board may employ such clerical help and staff pursuant to chapter 41.06 RCW as is necessary to carry out its duties. [1984 c 287 § 108; 1975-'76 2nd ex.s. c 34 § 173; 1975 1st ex.s. c 200 § 1; 1974 ex.s. c 137 § 3.]

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.

76.09.220 Forest practices appeals board—Compensation—Travel expenses—Chairman—Office—Quorum—Powers and duties—Jurisdiction—Review. (Effective July 1, 1985.) (1)

The appeals board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part-time basis, each member shall be compensated in accordance with RCW 43.03.240: *Provided*, That such compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel expenses incurred in the discharge of his duties

in accordance with the provisions of RCW 43.03.050 and 43.03.060.

(2) The appeals 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 or reelect a chairman.

(3) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals 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 on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(4) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(6) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(7) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department.

(8) (a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice may seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his request with the department and the attorney general. The attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in subparagraph (a) of this subsection are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases. [1984 c 287 § 109; 1979 ex.s. c 47 § 5; 1975-'76 2nd ex.s. c 34 § 174; 1975 1st ex.s. c 200 § 10; 1974 ex.s. c 137 § 22.]

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

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

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

Chapter 76.36 MARKS AND BRANDS

Sections	
76.36.010	Definitions.
76.36.020	Forest products to be marked.
76.36.030	Repealed.
76.36.035	Registration of brands—Assignments—Fee—Rules—Penalty.
76.36.040	Repealed.
76.36.050	Repealed.
76.36.060	Impression of mark—Presumption.
76.36.070	Cancellation of registration.
76.36.090	Catch brands.
76.36.110	Penalty for false branding, etc.
76.36.150	Repealed.
76.36.160	Deposit of fees—Use.

76.36.010 Definitions. The words and phrases herein used, unless the same be clearly contrary to or inconsistent with the context of this chapter or the section in which used, shall be construed as follows:

(1) "Person" includes the plural and all corporations, foreign and domestic, copartnerships, firms and associations of persons.

(2) "Waters of this state" includes any and all bodies of fresh and salt water within the jurisdiction of the state capable of being used for the transportation or storage of forest products, including all rivers and lakes and their tributaries, harbors, bays, bayous and marshes.

(3) "Forest products" means logs, spars, piles, and poles, boom sticks and shingle bolts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a sawmill, shingle mill or tie mill, or cut into cord wood, stove wood or hewn ties.

(4) "Brand" means a unique symbol or mark placed on or in forest products for the purpose of identifying ownership.

(5) "Catch brand" means a mark or brand used by a person as an identifying mark placed upon forest products and booming equipment previously owned by another.

(6) "Booming equipment" includes boom sticks and boom chains.

(7) "Department" means the department of natural resources. [1984 c 60 § 1; 1925 ex.s. c 154 § 1; RRS § 8381-1.]

76.36.020 Forest products to be marked. Persons who wish to identify any of their forest products which will be stored or transported in or on the waters of the state shall place a registered mark or brand in a conspicuous place on each forest product item. Placement of the registered mark or brand is prima facie evidence of ownership over forest product items which have escaped from storage or transportation. Unbranded or unmarked stray logs or forest products become the property of the state when recovered. [1984 c 60 § 2; 1925 ex.s. c 154 § 2; RRS § 8381-2. Prior: 1890 p 110 § 1.]

76.36.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

76.36.035 Registration of brands—Assignments—Fee—Rules—Penalty. (1) All applications for brands, catch brands, renewals, and assignments thereof shall be submitted to and approved by the department prior to use. The department may refuse to approve any brand or catch brand which is identical to or closely resembles a registered brand or catch brand, or is in use by any other person or was not selected in good faith for the marking or branding of forest products. If approval is denied the applicant will select another brand.

The registration for all existing brands or catch brands shall expire on December 31, 1984, unless renewed prior to that date. Renewals or new approved applications shall be for five-year periods or portions thereof beginning on January 1, 1985. On or before September 30, 1984, and September 30th immediately preceding the end of each successive five-year period the department shall notify by mail all registered owners of brands or catch brands of the forthcoming expiration of their brands and the requirements for renewal.

A fee of fifteen dollars shall be charged by the department for registration of all brands, catch brands, renewals or assignments prior to January 1, 1985. Thereafter the fee shall be twenty-five dollars.

Abandoned or canceled brands shall not be reissued for a period of at least one year. The department shall determine the right to use brands or catch brands in dispute by applicants.

(2) The department may adopt and enforce rules and regulations implementing the provisions of this chapter. A violation of any such rule or regulation shall constitute a misdemeanor. [1984 c 60 § 8.]

76.36.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

76.36.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

76.36.060 Impression of mark—Presumption. All forest products and booming equipment having impressed thereupon a registered mark or brand are presumed to belong to the person appearing on the records of the department as the owner of such mark or brand. All forest products having impressed thereupon a registered catch brand are presumed to belong to the owner of the registered catch brand, unless there is impressed thereupon more than one registered catch brand, in which event they are presumed to belong to the owner whose registered catch brand was placed thereupon latest in point of time. [1984 c 60 § 3; 1957 c 36 § 4; 1925 ex.s. c 154 § 6; RRS § 8381-6. Prior: 1890 p 111 § 4.]

76.36.070 Cancellation of registration. The department, upon the petition of the owner of a registered mark or brand, may cancel the registration in which case the mark or brand shall be open to registration by

any person subsequently applying therefor. [1984 c 60 § 4; 1957 c 36 § 5; 1925 ex.s. c 154 § 7; RRS § 8381-7.]

76.36.090 Catch brands. A person desiring to use a catch brand as an identifying mark upon forest products or booming equipment purchased or lawfully acquired from another, shall before using it, make application for the registration thereof to the department in the manner prescribed for the registration of other marks or brands as herein required. The provisions contained in this chapter in reference to registration, certifications, assignment, and cancellation, and the fees to be paid to the department shall apply equally to catch brands. The certificate of the department shall designate the mark or brand as a catch brand, and the mark or brand selected by the applicant as a catch brand shall be inclosed in the letter C, which shall identify the mark or brand as, and shall be used only in connection with, a catch brand. [1984 c 60 § 5; 1957 c 36 § 6; 1925 ex.s. c 154 § 9; RRS § 8381-9.]

76.36.110 Penalty for false branding, etc. Every person:

(1) Except boom companies and log patrol companies organized as corporations for the purpose of catching or reclaiming and holding or disposing of forest products for the benefit of the owners, and authorized to do business under the laws of this state, who has or takes in tow or into custody or possession or under control, without the authorization of the owner of a registered mark or brand thereupon, any forest products or booming equipment having thereupon a mark or brand registered as required by the terms of this chapter, or, with or without such authorization, any forest products or booming equipment which may be branded under the terms of this chapter with a registered mark or brand and having no registered mark or brand impressed thereupon or cut therein; or,

(2) Who impresses upon or cut in any forest products or booming equipment a mark or brand that is false, forged or counterfeit; or,

(3) Who interferes with, prevents, or obstructs the owner of any registered mark or brand, or his or her duly authorized agent or representative, entering into or upon any tidelands, marshes or beaches of this state or any mill, mill site, mill yard or mill boom or rafting or storage grounds or any forest products or any raft or boom thereof for the purpose of searching for forest products and booming equipment having impressed thereupon a registered mark or brand belonging to him or her or retaking any forest products or booming equipment so found by him or her; or,

(4) Who impresses or cuts a catch brand that is not registered under the terms of this chapter upon or into any forest products or booming equipment upon which there is a registered mark or brand as authorized by the terms of this chapter or a catch brand, whether registered or not, upon any forest products or booming equipment that was not purchased or lawfully acquired

by him or her from the owner; is guilty of a gross misdemeanor. [1984 c 60 § 6; 1925 ex.s. c 154 § 11; RRS § 8381-11. Prior: 1890 p 112 § 8.]

76.36.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

76.36.160 Deposit of fees—Use. The department shall deposit all moneys received under this chapter in the general fund to be used exclusively for the administration of this chapter by the department. [1984 c 60 § 7; 1957 c 36 § 10.]

**Chapter 76.40
LOG PATROLS**

Sections	
76.40.010	Definitions.
76.40.012	Enforcement of chapter.
76.40.013	Rules and regulations—Penalty for violation.
76.40.020	Log patrol license required for certain acts— Exceptions.
76.40.030	Log patrol license—Bond—Equipment stickers or devices—Fees—Deposit of fees—Use.
76.40.040	Identifying equipment device to be displayed.
76.40.050	Disposition of recovered stray logs—Compensation.
76.40.070	Disposition of recovered boom sticks and chains— Compensation—Notice to owner—Sale.
76.40.080	Presumption arising from possession.
76.40.100	Conversion of boom sticks or chains.
76.40.120	Records to be kept—Examination of records—In- vestigation of business.
76.40.122	through 76.40.128 Repealed.
76.40.135	License denial, revocation, or suspension— Grounds—Hearing.
76.40.140	Designation of closed areas—Designation of removal sites.
76.40.145	Agreements with Oregon.

76.40.010 Definitions. Words and phrases herein used, unless clearly contrary to or inconsistent with the context of this chapter or the section in which used, shall be construed as follows:

(1) "Log patrol" means any person licensed by the department for the purpose of engaging in the recapture, return, or other disposition of stray logs from the waters of this state except activities by the owner of such logs, the transportation agency that towed or transported the booms or cargo from which such stray logs were lost, or any other duly constituted agent of the owner who is attempting immediate recovery of the stray logs;

(2) "Stray logs" means and includes any and all logs, trees, piling, poles, and boom sticks having a merchantable value that are adrift or have been adrift and stranded on beaches, marshes, or tide and shore lands, or that are partially or wholly submerged in the waters of the state, which have escaped in any manner from the owner or from a transportation agency, from storage or while being transported;

(3) "Person" includes the plural and all corporations foreign and domestic, copartnerships, firms, and associations of persons;

(4) "Boom company" means a company organized and operating under the authority of chapter 76.28 RCW;

(5) "Waters of this state" include any and all bodies of fresh and salt water including all rivers and lakes and their tributaries, harbors, bays, bayous, and marshes within the jurisdiction of the state capable of being used for the transportation or storage of forest products;

(6) "Department" means the Washington state department of natural resources;

(7) "Other equipment" means any mechanized equipment used to recapture stray logs from the waters of this state, its beaches, marshes, beds, and tide and shore lands;

(8) "Merchantable value" means those stray logs that are capable of commanding value singly or in combination with other stray logs when disposed of by the log patrol or the state as provided in RCW 76.40.050. [1984 c 60 § 9; 1957 c 182 § 1. Prior: (i) 1947 c 116 § 2; Rem. Supp. 1947 § 8415-11. (ii) 1947 c 116 § 7; Rem. Supp. 1947 § 8415-16.]

76.40.012 Enforcement of chapter. The department shall administer and enforce the provisions of this chapter. [1984 c 60 § 10; 1955 c 108 § 1; 1953 c 140 § 2.]

76.40.013 Rules and regulations—Penalty for violation. The department may adopt and enforce such reasonable rules and regulations as may be consistent with and necessary to carry out the provisions of this chapter relating to log patrols. Any violation of a rule or regulation prescribed by the department under this chapter shall be punishable as a misdemeanor. [1984 c 60 § 11; 1957 c 182 § 9.]

76.40.020 Log patrol license required for certain acts—Exceptions. It is unlawful for any person who does not have a valid log patrol license to hold any stray log or to directly or indirectly engage in the activities of a log patrol on or adjacent to the waters of this state, except that area in the state of Washington on the Columbia River above Grand Coulee Dam drained by the Columbia River and its tributaries, and except as hereinafter provided. Nothing in this chapter shall be construed to deprive any person of any right to take nonmerchantable unbranded stray logs for his own domestic use. [1984 c 60 § 12; 1957 c 182 § 2; 1955 c 27 § 1; 1953 c 140 § 9; 1947 c 116 § 1; Rem. Supp. 1947 § 8415-10.]

76.40.030 Log patrol license—Bond—Equipment stickers or devices—Fees—Deposit of fees—Use. (1) Before any person may engage in log patrol activities that person must be licensed by the department. Before any license is issued, the applicant must apply to the department on a form to be prescribed by the department. The application must contain all information required by the department. Before any license may be issued, the applicant must execute and file with the department, to be approved by it, a surety bond running to the state in the sum of ten thousand dollars,

conditioned that the applicant will comply with all the requirements of the laws of the state governing such activities, and will account for all stray logs taken into possession. Each application shall be accompanied by a remittance of five hundred dollars for each boat or other equipment to be used or operated in such activities by the licensee or agent. All licenses shall expire on June 30th of each even-numbered year following the date of issuance. The department shall issue each applicant a license and shall also issue distinctive stickers or other suitable devices for the piece of equipment listed in the application identifying it as engaged in log patrol activities.

(2) All moneys received by the department under this chapter shall be deposited in the general fund. License fees shall be used exclusively for administration of this chapter by the department. [1984 c 60 § 13; 1979 ex.s. c 67 § 13; 1963 c 12 § 1; 1957 c 182 § 3; 1955 c 108 § 3; 1953 c 140 § 10; 1947 c 116 § 3; Rem. Supp. 1947 § 8415-12.]

Effective date—1979 ex.s. c 67: See note following RCW 76.06.110.

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

76.40.040 Identifying equipment device to be displayed. It is unlawful for any licensee or the licensee's agent to engage in the activities of a log patrol without having at all times displayed on each side of each piece of licensed equipment the distinctive device identifying it as a log patrol issued by the department. [1984 c 60 § 14; 1957 c 182 § 4; 1947 c 116 § 4; Rem. Supp. 1947 § 8415-13.]

76.40.050 Disposition of recovered stray logs—Compensation. (1) All stray logs may be:

(a) Returned to the owner, if marked or branded, when deemed practical; or

(b) Delivered to a boom company, other agency approved by the department, or the department if so directed; or

(c) Held by the log patrol in a raft or dry land storage at locations approved by the department.

The log patrol shall be entitled to a reasonable compensation, for the recovery and return of such logs, and shall have all the rights incident to a logger's lien therefor: *Provided*, That a log patrol shall not take into possession any stray logs including unbranded logs during the time that the owner, the owner's agent, or the transportation agency which lost said stray logs, are attempting immediate recovery of the stray logs.

(2) Sales procedure for recovered stray logs shall be as directed by the department. Log patrols shall receive compensation for the services performed of seventy-five percent of the selling price of the logs, unless written permission is first obtained from the stray log owner for a higher rate. [1984 c 60 § 15; 1957 c 182 § 5; 1953 c 140 § 11; 1947 c 116 § 5; Rem. Supp. 1947 § 8415-14.]

Lien for labor and service on timber and lumber: Chapter 60.24 RCW.

76.40.070 Disposition of recovered boom sticks and chains—Compensation—Notice to owner—Sale.

Branded or marked boom sticks and boom chains shall be held by the log patrol, boom company, or approved agency for the owner as identified by the registered brand or mark thereon, and when claimed by the owner the log patrol, boom company, or approved agency shall be entitled to receive reasonable compensation. If there is no agreement between the parties as to the level of compensation for the return of boom sticks or boom chains, the department shall set the level. Upon receipt of such boom sticks, the log patrol, the boom company, or other approved agency shall notify the owner who shall have thirty days to recover said boom sticks upon payment of such reasonable compensation for its recovery. If the owner fails, neglects, or refuses to claim his boom sticks within such period after notice, they may be sold as stray logs. [1984 c 60 § 16; 1957 c 182 § 6; 1947 c 116 § 8; Rem. Supp. 1947 § 8415-17.]

Lien for labor and service on timber and lumber: Chapter 60.24 RCW.

76.40.080 Presumption arising from possession. Any log patrol having possession of stray logs, boom sticks, or boom chains, except as herein provided shall be presumed to have and hold possession of same with intent to deprive and defraud the owner thereof and such possession shall be prima facie evidence of intent to deprive or defraud. [1984 c 60 § 17; 1947 c 116 § 9; Rem. Supp. 1947 § 8415-18.]

76.40.100 Conversion of boom sticks or chains. It is unlawful for any log patrol or any other person to take into possession with intent to sell, or for any person to buy boom sticks or chains, or to manufacture boom sticks into lumber or other wooden products without the written consent of the owner. [1984 c 60 § 18; 1947 c 116 § 11; Rem. Supp. 1947 § 8415-20.]

76.40.120 Records to be kept—Examination of records—Investigation of business. (1) Every log patrol boom company, or agency designated by the department shall keep, at the place of business listed in its application, open to public inspection, during office hours, such permanent records required by the department as will be a tabulation of its log patrol activities.

(2) The department may at any time examine all records that relate to log patrol activity of any log patrol licensee, boom company, agent, or any person applying for a license.

(3) The department shall have reasonable access to and the right to investigate the place of business of any person who handles, sells, or buys logs pursuant to this chapter. [1984 c 60 § 19; 1947 c 116 § 14; RRS § 8412-23.]

76.40.122 through 76.40.128 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

76.40.135 License denial, revocation, or suspension—Grounds—Hearing. (1) The department may deny an application for a license if the applicant:

(a) Has previously violated the terms of this chapter, its rules, or conditions of any previous permit or approval; or

(b) Has a conflict of interest the department reasonably believes will prevent or hinder the applicant from carrying out the provisions of this chapter; or

(c) In the opinion of the department, does not have the ability to carry out the provisions of this chapter.

(2) The department may revoke or suspend a log patrol license or authority by a boom company or agent to sell stray logs if the licensee, boom company, or agent has violated the provisions of this chapter, the terms of its license, the rules promulgated by the department, approvals for authority to sell to boom companies or designated agencies, or laws which may affect the performance of log patrol activities.

(3) All persons whose application is denied, or whose licenses or authorizations or approvals are revoked or suspended shall be notified by the department of such determination. All such persons have the right within thirty days of receipt of such notice to request a hearing by making a written request to the department.

(4) The department may, where it deems it in the best interest of the state, provide that the revocation or suspension take place immediately pending any hearing. In such a case, if a hearing is properly requested in accordance with this section, the hearing shall be held not more than fifteen days after receipt of the request.

(5) All hearings provided for in this section shall be contested cases under the provisions of chapter 34.04 RCW. Such hearings are the exclusive method to appeal the denials, revocations, or suspensions of the department. Nothing prevents the department from holding informal hearings prior to such denial, revocation, or suspension. [1984 c 60 § 20.]

76.40.140 Designation of closed areas—Designation of removal sites. The department, when it determines it is necessary for the effective administration and enforcement of this chapter, may:

(1) Set aside areas in any of the waters of the state which shall be closed to log patrol activities. The department may administer such areas by a contract in order to carry out recovery of stray logs including wood debris as provided in chapter 76.42 RCW. All contracts shall be awarded by the department on a competitive bid basis pursuant to procedures specified by the department.

(2) Designate specific sites from which stray logs may be removed from the waters of this state by log patrol licensees, log buyers, boom companies, or agencies designated by the state. [1984 c 60 § 21.]

76.40.145 Agreements with Oregon. The department may enter into agreements with the state of Oregon and its applicable agencies to coordinate log patrol activities on or adjacent to the Columbia river and, to the extent possible, provide for uniform administration and enforcement.

These agreements may include, but are not limited to, record keeping requirements, tagging or marking requirements, auditing and inspection requirements, enforcement procedures including delegation of police powers, license requirements, suspensions or revocations, designations of closed areas, designations of removal sites, and log sale or disposal. [1984 c 60 § 22.]

Title 77 GAME AND GAME FISH

Chapters

- 77.04** Department of game.
77.12 Powers and duties of commission.
77.21 Penalties—Proceedings.
77.32 Licenses.

Volunteer cooperative fish and wildlife enhancement program: Chapter 75.52 RCW.

Chapter 77.04 DEPARTMENT OF GAME

Sections

- 77.04.060 Game commission—Meetings—Officers—Selection of director—Compensation, travel expenses. (Effective July 1, 1985.)
 77.04.090 Rules—Adoption—Certified copy as evidence.

77.04.060 Game commission—Meetings—Officers—Selection of director—Compensation, travel expenses. (Effective July 1, 1985.) The commission shall hold regular meetings within the first ten days of January, April, July, and October of each year, and special meetings when called by the chairman or by four members. Four members constitute a quorum for the transaction of business.

The commission at a meeting in each odd-numbered year shall elect one of its members as chairman and another member as vice chairman, each of whom shall serve for a term of two years or until a successor is elected and qualified.

When a vacancy in the office of the director has occurred, the commission shall elect a director by approval of four members. The director shall hold office at the pleasure of the commission.

Members of the commission shall be compensated in accordance with RCW 43.03.250. In addition, members are allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 110; 1980 c 78 § 6; 1977 c 75 § 89; 1975-'76 2nd ex.s. c 34 § 175; 1961 c 307 § 9; 1955 c 352 § 1; 1955 c 36 § 77.04.060. Prior: 1949 c 205 § 1; 1947 c 275 § 6; Rem. Supp. 1949 § 5992-16.]

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

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

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

77.04.090 Rules—Adoption—Certified copy as evidence. The commission shall adopt permanent rules and amendments to or repeals of existing rules by approval of four members by resolution, entered and recorded in the minutes of the commission. The commission shall adopt emergency rules by approval of four members. The commission or the director, when adopting emergency rules under RCW 77.12.150, shall adopt rules in conformance with chapter 34.04 RCW. Judicial notice shall be taken of the rules filed and published as provided in RCW 34.04.040 and 34.04.050.

A copy of an emergency rule, certified as a true copy by a member of the commission, the director, or by a person authorized in writing by the director to make the certification, is admissible in court as prima facie evidence of the adoption and validity of the rule. [1984 c 240 § 1; 1980 c 78 § 16; 1955 c 36 § 77.12.050. Prior: 1947 c 275 § 15; Rem. Supp. 1947 § 5992-25. Formerly RCW 77.12.050.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

Chapter 77.12 POWERS AND DUTIES OF COMMISSION

Sections

- 77.12.030 Authority to regulate wildlife.
 77.12.040 Regulating the taking or possessing of game—Emergency rules—Game reserves, closed areas and waters.
 77.12.150 Game seasons—Opening and closing—Bag limits.
 77.12.170 State game fund—Deposits. (Effective July 1, 1985.)
 77.12.201 Counties may elect to receive an amount in lieu of taxes. (Effective January 1, 1985 and until July 1, 1985.)
 77.12.201 Counties may elect to receive an amount in lieu of taxes—County to record collections for violations of law or rules of commission—Deposit. (Effective July 1, 1985.)
 77.12.203 In lieu payments authorized—Procedure—Game lands defined. (Effective January 1, 1985.)
 77.12.650 Protection of bald eagles and their habitats—Cooperation required.
 77.12.655 Habitat buffer zones for bald eagles—Rules.
 77.12.660 Joint select committee on threatened and endangered species—Report.

77.12.030 Authority to regulate wildlife. The commission may regulate the taking, possession, collection, distribution, importation, transportation, and sale of wildlife and deleterious exotic wildlife species. [1984 c 240 § 2; 1980 c 78 § 14; 1969 ex.s. c 18 § 2; 1955 c 36 § 77.12.030. Prior: 1947 c 275 § 13; Rem. Supp. 1947 § 5992-23.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.040 Regulating the taking or possessing of game—Emergency rules—Game reserves, closed areas and waters. The commission shall adopt, amend, or

repeal, and enforce reasonable rules prohibiting or governing the time, place, and manner of taking or possessing game animals, game birds, or game fish. The commission may specify the quantities, species, sex, and size of game animals, game birds, or game fish that may be taken or possessed. The director may adopt emergency rules under RCW 77.12.150.

The commission may establish by rule game reserves and closed areas where hunting for wild animals or wild birds may be prohibited and closed waters where fishing for game fish may be prohibited. [1984 c 240 § 3; 1980 c 78 § 15; 1969 ex.s. c 18 § 3; 1955 c 36 § 77.12.040. Prior: 1947 c 275 § 14; Rem. Supp. 1947 § 5992-24.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.150 Game seasons—Opening and closing—Bag limits. By emergency rule only, and in accordance with rules of the commission, the director may close or shorten a season for game animals, game birds, or game fish, and after a season has been closed or shortened, may reopen it and reestablish bag limits on game animals, game birds, or game fish during that season.

If the director finds that game animals have increased in numbers in an area of the state so that they are damaging public or private property or over-utilizing their habitat, the commission may establish by rule a special hunting season and designate the time, area, and manner of taking and the number and sex of the animals that may be killed or possessed by a licensed hunter. The director shall determine by random selection the identity of hunters who may hunt within the area and shall determine the conditions and requirements of the selection process. The commission shall include notice of the special season in the rules establishing open seasons. [1984 c 240 § 4; 1980 c 78 § 29; 1977 ex.s. c 58 § 1; 1975 1st ex.s. c 102 § 1; 1955 c 36 § 77.12.150. Prior: 1949 c 205 § 2; 1947 c 275 § 25; Rem. Supp. 1949 § 5992-35.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.
Special hunting season permits: RCW 77.32.370.

77.12.170 State game fund—Deposits. (Effective July 1, 1985.) (1) There is established in the state treasury the state game fund which consists of moneys received from:

- (a) Rentals or concessions of the department;
- (b) The sale of real or personal property held for department purposes;
- (c) The sale of licenses, permits, tags, stamps, and punchcards required by this title;
- (d) Fees for informational materials published by the department;
- (e) Fees for personalized vehicle license plates as provided in chapter 46.16 RCW;
- (f) Articles or wildlife sold by the commission under this title;
- (g) Compensation for wildlife losses or gifts or grants received under RCW 77.12.320; and

(h) Excise tax on anadromous game fish collected under chapter 82.27 RCW.

(2) State and county officers receiving any moneys listed in subsection (1) of this section shall deposit them in the state treasury to be credited to the state game fund. [1984 c 258 § 334. Prior: 1983 1st ex.s. c 8 § 2; 1983 c 284 § 1; 1981 c 310 § 2; 1980 c 78 § 30; 1979 c 56 § 1; 1973 1st ex.s. c 200 § 12 (Referendum Bill No. 33); 1969 ex.s. c 199 § 33; 1955 c 36 § 77.12.170; prior: 1947 c 275 § 27; Rem. Supp. 1947 § 5992-37.]

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.

Findings—1983 1st ex.s. c 8: See note following RCW 77.21.070.

Findings—Intent—1983 c 284: See note following RCW 82.27.020.

Effective dates—1981 c 310: "(1) Sections 9 and 10 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 on July 1, 1981.

(2) Section 13 of this act shall take effect on May 1, 1982.

(3) Sections 8, 11, 12, and 14 of this act shall take effect on July 1, 1982.

(4) All other sections of this act shall take effect on January 1, 1982." [1981 c 310 § 32.]

Reviser's note: (1) "Sections 9 and 10" refer to the 1981 c 310 amendments to RCW 77.32.020 and to the enactment of RCW 77.32.330.

(2) "Section 13" refers to the enactment of RCW 77.32.360.

(3) "Sections 8, 11, 12, and 14" refer to the enactment of RCW 77.32.320, 77.32.340, 77.32.350, and 77.32.370.

(4) "All other sections" refers to section 1, legislative intent, appearing as a footnote following this section; sections 2 through 7 which are the 1981 c 310 amendments to RCW 77.12.170, 77.16.020, 77.16.310, 77.16.320, 77.21.010, and 77.32.010; section 15 which is RCW 77.32.380; sections 16 through 30 which are the 1981 c 310 amendments to RCW 77.32.050, 77.32.060, 77.32.070, 77.32.090, 77.32.101, 77.32.155, 77.32.161, 77.32.191, 77.32.197, 77.32.211, 77.32.220, 77.32.230, 77.32.240, 77.32.250, and 77.32.256; section 31, legislative directive (uncodified); and the effective date section quoted in the preceding note.

Legislative intent—1981 c 310: "The legislature finds that abundant deer and elk populations are in the best interest of the state, and for many reasons the state's deer and elk populations have apparently declined. The legislature further finds that antlerless deer and elk seasons have been an issue of great controversy throughout the state, and that antlerless deer and elk seasons may contribute to a further decline in the state's deer and elk populations." [1981 c 310 § 1.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.201 Counties may elect to receive an amount in lieu of taxes. (Effective January 1, 1985 and until July 1, 1985.) The legislative authority of a county may elect, by giving written notice to the director and the treasurer prior to January 1st of any year, to obtain for the following year an amount in lieu of real property taxes on game lands as provided in RCW 77.12.203. Upon the election, all fines and forfeitures received by the county during that year under RCW 77.12.170 shall be deposited in the state treasury to be credited to the state game fund. The election shall continue until the department is notified differently prior to January 1st of any year. [1984 c 214 § 1; 1980 c 78 § 36; 1977 ex.s. c 59 § 1; 1965 ex.s. c 97 § 2.]

Effective date—1984 c 214: "This act takes effect on January 1, 1985." [1984 c 214 § 3.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.201 Counties may elect to receive an amount in lieu of taxes—County to record collections for violations of law or rules of commission—Deposit. (Effective July 1, 1985.) The legislative authority of a county may elect, by giving written notice to the director and the treasurer prior to January 1st of any year, to obtain for the following year an amount in lieu of real property taxes on game lands as provided in RCW 77.12.203. Upon the election, the county shall keep a record of all fines, forfeitures, reimbursements, and costs assessed and collected, in whole or in part, under this title for violations of law or rules of the commission and shall monthly remit an amount equal to the amount collected to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250. The election shall continue until the department is notified differently prior to January 1st of any year. [1984 c 258 § 335; 1984 c 214 § 1; 1980 c 78 § 36; 1977 ex.s. c 59 § 1; 1965 ex.s. c 97 § 2.]

Reviser's note: This section was amended by 1984 c 214 § 1 and by 1984 c 258 § 335, 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).

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.

Effective date—1984 c 214: "This act takes effect on January 1, 1985." [1984 c 214 § 3.]

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.203 In lieu payments authorized—Procedure—Game lands defined. (Effective January 1, 1985.) Notwithstanding RCW 84.36.010 or other statutes to the contrary, the director shall pay by April 30th of each year on game lands in each county, if requested by an election under RCW 77.12.201, an amount in lieu of real property taxes equal to that amount paid on similar parcels of open space land taxable under chapter 84.34 RCW or the greater of seventy cents per acre per year or the amount paid in 1984 plus an additional amount for control of noxious weeds equal to that which would be paid if such lands were privately owned. This amount shall not be assessed or paid on department buildings, structures, facilities, game farms, fish hatcheries, tidelands, or public fishing areas of less than one hundred acres.

"Game lands," as used in this section and RCW 77.12.201, means those tracts one hundred acres or larger owned in fee by the department and used for wildlife habitat and public recreational purposes. All lands purchased for wildlife habitat, public access or recreation purposes with federal funds in the Snake River drainage basin shall be considered game lands regardless of acreage. [1984 c 214 § 2; 1980 c 78 § 37; 1965 ex.s. c 97 § 3.]

Effective date—1984 c 214: See note following RCW 77.12.201.

Effective date—Intent, construction—Savings—Severability—1980 c 78: See notes following RCW 77.04.010.

77.12.650 Protection of bald eagles and their habitats—Cooperation required. The department of game shall cooperate with other local, state, and federal agencies and governments to protect bald eagles and their essential habitats through existing governmental programs, including but not limited to:

(1) The natural heritage program managed by the department of natural resources under chapter 79.70 RCW;

(2) The natural area preserve program managed by the department of natural resources under chapter 79.70 RCW;

(3) The shoreline management master programs adopted by local governments and approved by the department of ecology under chapter 90.58 RCW. [1984 c 239 § 2.]

Legislative declaration—1984 c 239: "The legislature hereby declares that the protection of the bald eagle is consistent with a societal concern for the perpetuation of natural life cycles, the sensitivity and vulnerability of particular rare and distinguished species, and the quality of life of humans." [1984 c 239 § 1.]

77.12.655 Habitat buffer zones for bald eagles—Rules. The department, in accordance with chapter 34.04 RCW, shall adopt and enforce necessary rules defining the extent and boundaries of habitat buffer zones for bald eagles. Rules shall take into account the need for variation of the extent of the zone from case to case, and the need for protection of bald eagles. The rules shall also establish guidelines and priorities for purchase or trade and establishment of conservation easements and/or leases to protect such designated properties. The department shall also adopt rules to provide adequate notice to property owners of their options under RCW 77.12.650 through 77.12.660. [1984 c 239 § 3.]

Legislative declaration—1984 c 239: See note following RCW 77.12.650.

77.12.660 Joint select committee on threatened and endangered species—Report. There is hereby created the "joint select committee on threatened and endangered species" of the Washington state legislature. The select committee shall consist of twelve members, three each from the majority and minority caucuses of the Senate and the majority and minority caucuses of the House of Representatives, appointed by the president of the Senate and the speaker of the House of Representatives upon the recommendation of the respective caucuses. The select committee shall study and report to the 1987 legislature its findings on matters relating to threatened and endangered species including, but not limited to, the promulgation of a threatened and endangered species list, the protection of the habitat of such species, compensation and incentives to private property owners to protect such species and their habitat and appropriate enforcement provisions. [1984 c 239 § 4.]

Legislative declaration—1984 c 239: See note following RCW 77.12.650.

Chapter 77.21
PENALTIES—PROCEEDINGS

Sections

- 77.21.050 Repealed. (Effective July 1, 1985.)
77.21.070 Illegal hunting or possession of wildlife—Reimbursement to state—Amounts. (Effective July 1, 1985.)

77.21.050 Repealed. (Effective July 1, 1985.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

77.21.070 Illegal hunting or possession of wildlife—Reimbursement to state—Amounts. (Effective July 1, 1985.) (1) Whenever a person is convicted of illegal hunting or possession of wildlife listed in this subsection, the convicting court shall order the person to reimburse the state in the following amounts for each animal killed or possessed:

- (a) Moose, antelope, mountain sheep, mountain goat, and all wildlife species classified as endangered by rule of the commission \$1,000
(b) Elk, deer, black bear, and cougar \$500

(2) For the purpose of this section, the term "convicted" includes a plea of guilty, a finding of guilt regardless of whether the imposition of the sentence is deferred or any part of the penalty is suspended, and the payment of a fine.

(3) If two or more persons are convicted of illegally hunting or possessing wildlife listed in this section, the reimbursement amount shall be imposed upon them jointly and separately.

(4) The reimbursement amount provided in this section shall be imposed in addition to and regardless of any penalty, including fines, or costs, that is provided for violating any provision of Title 77 RCW. The reimbursement required by this section shall be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect. Nothing in this section may be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(5) A defaulted reimbursement or any installment payment thereof may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including vacation of a deferral of sentencing or of a suspension of sentence. [1984 c 258 § 336; 1983 1st ex.s. c 8 § 3.]

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.

Findings—1983 1st ex.s. c 8: "The legislature finds that wildlife is of great ecological, recreational, esthetic, and economic value to the people of the state of Washington. It further finds that the illegal taking and possession of certain valuable wildlife species is increasing at an alarming rate and that the state should be reimbursed for the loss of individual wildlife of these species in the amounts specified in section 3 of this act." [1983 1st ex.s. c 8 § 1.] "Section 3 of this act" consists of the enactment of RCW 77.21.070.

Chapter 77.32
LICENSES

Sections

- 77.32.007 "Special hunting season" defined.
77.32.235 Handicapped persons and senior citizens—Exemption from individual license and fee requirement—Conditions—Group permit required.
77.32.340 Game stamps required—Fees, procedures.
77.32.350 Stamps required for special hunting methods—Fees, procedures.
77.32.370 Special hunting season permits—Fee.

77.32.007 "Special hunting season" defined. For the purposes of this chapter "special hunting season" means a hunting season established by rule of the commission for the purpose of taking specified wildlife under a special hunting permit. [1984 c 240 § 8.]

77.32.235 Handicapped persons and senior citizens—Exemption from individual license and fee requirement—Conditions—Group permit required. Physically or mentally handicapped persons and senior citizens may fish for game fish during open season without individual licenses or the payment of individual license fees if such fishing activity is occasional, is conducted in a group supervised by staff of a department of social and health services licensed care facility, and the facility holds a group fishing permit issued by the director. The director shall issue such a permit upon application by care facility staff. [1984 c 33 § 1.]

77.32.340 Game stamps required—Fees, procedures. A supplemental stamp is required to hunt deer, elk, bear, cougar, sheep, mountain goat, moose, or wild turkey.

(1) The fee for a deer stamp is ten dollars.

(2) The fee for a resident elk stamp is fifteen dollars. The fee for a nonresident elk stamp is seventy-five dollars.

(3) The fee for a resident bear stamp is ten dollars. The fee for a nonresident bear stamp is seventy-five dollars.

(4) The fee for a resident cougar stamp is ten dollars. The fee for a nonresident cougar stamp is one hundred fifty dollars.

(5) The fee for a mountain goat stamp is thirty-five dollars which shall be paid at the time of application. Applicants who are not selected for a mountain goat special season permit shall receive a refund of this fee, less five dollars.

(6) The fee for a sheep stamp is seventy-five dollars for residents and three hundred dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a sheep special season permit shall receive a refund of this fee, less five dollars.

(7) The fee for a moose stamp is one hundred dollars for residents and three hundred dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a moose special season permit shall receive a refund of this fee, less five dollars.

(8) The fee for a wild turkey stamp is ten dollars.

(9) To be valid, supplemental stamps required under this section shall be permanently affixed to the transport tag at the time of purchase and the stamp numbers legibly transferred to the hunting license.

(10) Supplemental stamps required under this section expire on March 31st following the date of issuance. [1984 c 240 § 5; 1981 c 310 § 11.]

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

77.32.350 Stamps required for special hunting methods—Fees, procedures. (1) A hound stamp is required to hunt wild animals with a dog. The fee for this stamp is six dollars.

(2) An upland game bird stamp is required to hunt for quail, partridge, and pheasant in areas designated by rule of the commission. The fee for this stamp is six dollars.

(3) An archery stamp is required to hunt with a bow and arrow during seasons established exclusively for hunting in that manner. The fee for this stamp is six dollars.

(4) A muzzleloading firearm stamp is required to hunt with a muzzleloading firearm during seasons established exclusively for hunting in that manner. The fee for this stamp is six dollars.

(5) A falconry stamp is required to hunt with a falcon during seasons established exclusively for hunting in that manner. The fee for this stamp is fifteen dollars.

(6) To be valid, stamps required under this section shall be permanently affixed to the licensee's appropriate hunting or fishing license.

(7) Stamps required by this section expire on March 31st following the date of issuance except for hound stamps, which expire December 31st following the date of issuance. [1984 c 240 § 6; 1981 c 310 § 12.]

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

77.32.370 Special hunting season permits—Fee. (1) A special hunting season permit is required to hunt in each special season established under chapter 77.12 RCW.

(2) Persons may apply for special hunting season permits as provided by rule of the commission.

(3) The application fee to participate in a special hunting season is two dollars. [1984 c 240 § 7; 1981 c 310 § 14.]

Effective dates—Legislative intent—1981 c 310: See notes following RCW 77.12.170.

Title 78

MINES, MINERALS, AND PETROLEUM

Chapters

- 78.12** Abandoned shafts and excavations.
78.22 Extinguishment of unused mineral rights.
78.44 Surface mining.

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Chapter 78.12

ABANDONED SHAFTS AND EXCAVATIONS

Sections

78.12.030 Order to serve notice.

78.12.030 Order to serve notice. Upon the filing of the notice, as provided in RCW 78.12.020, the district or municipal court shall issue an order, directed to the sheriff of the county or to any constable or city marshal therein, directing such officer to serve a notice in manner and form as is prescribed by law for service of summons upon any person or persons or the authorized agent or agents of any company or corporation named in the notice on file, as provided in RCW 78.12.020. [1984 c 258 § 139; 1890 p 121 § 3; RRS 8859.]

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

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Chapter 78.22

EXTINGUISHMENT OF UNUSED MINERAL RIGHTS

Sections

78.22.010 Extinguishment of unused mineral rights authorized.
 78.22.020 "Mineral interest" defined.
 78.22.030 Acts constituting use of mineral interest.
 78.22.040 Statement of claim—Contents—Fees—Filing.
 78.22.050 Extinguishment of mineral interest—Procedure.
 78.22.060 Presumption of extinguishment—Conditions—Statement of claim—Filing, recording, indexing.
 78.22.070 Statement of claim—Notice and affidavit of publication—Auditor's duties.
 78.22.080 Exemptions from claim of abandonment and extinguishment.
 78.22.090 Waiver prohibited.

78.22.010 Extinguishment of unused mineral rights authorized. Any mineral interest, if unused for a period of twenty years, may be extinguished by the surface owner as set forth in RCW 78.22.050 and 78.22.060. [1984 c 252 § 1.]

78.22.020 "Mineral interest" defined. A mineral interest means the interest which is created by an instrument transferring, either by grant, assignment, or reservation, or otherwise an interest, of any kind, in any subsurface mineral. [1984 c 252 § 2.]

78.22.030 Acts constituting use of mineral interest. A mineral interest is used if:

- (1) Any minerals produced have been in connection with the mineral interest;
- (2) Operations for injection, withdrawal, storage or disposal of water, gas, or other fluid substances have been conducted in connection with the mineral interest;
- (3) Rents or royalties have been paid for the purpose of delaying or enjoying the use or exercise of the mineral interest;

(4) The use or the exercise of the mineral interest has been carried out on any tract with which the mineral interest may be unitized or pooled for production purposes;

(5) In the case of coal or other solid minerals, minerals have been produced from a common vein or seam;

(6) Taxes have been paid on such mineral interest;

(7) Any use pursuant to or authorized by the instrument creating such mineral interest has been taken;

(8) A sale, lease, mortgage, or other transfer of the mineral interest has been recorded in the county auditor's office in the county in which the land affected by the mineral interest is located prior to the end of the twenty-year period set forth in RCW 78.22.010 or within two years after June 7, 1984, whichever is later; or

(9) A statement of claim has been filed by the owner of the mineral interest in the manner set forth in RCW 78.22.040 or 78.22.060. [1984 c 252 § 3.]

78.22.040 Statement of claim—Contents—Fees—Filing. The statement of claim referred to in RCW 78.22.030(9) shall be filed by the current owner of the mineral interest prior to the end of the twenty-year period set forth in RCW 78.22.010 or within two years after June 7, 1984, whichever is later. The statement of claim shall contain the name and address of the current owner of such interest, and the name of the original holder of the mineral interest substantially as that name is shown on the instrument that originally created the mineral interest and shall be accompanied by payment of the fees provided in RCW 36.18.010.

The statement of claim shall be filed in the county auditor's office in the county in which such land affected by the mineral interest is located. [1984 c 252 § 4.]

78.22.050 Extinguishment of mineral interest—Procedure. (1) After the later of the expiration of the twenty-year period set forth in RCW 78.22.010 or two years after June 7, 1984, the surface owner may extinguish the mineral interest held by another person and acquire ownership of that interest by providing sixty days notice of intention to file a claim of abandonment and extinguishment of the mineral interest upon the current mineral interest owner. Notice shall be served by personal service or by mailing the notice by registered mail to the last known address of the current mineral interest owner. The county treasurer shall supply the name and address of the current mineral interest owner as they appear on the county property tax records to the surface owner without charge. If the current mineral interest owner is unknown to the county treasurer, and the current mineral interest owner cannot be determined after due diligence, the surface owner may serve the notice upon the current mineral interest owner by publishing the notice at least once each week for three consecutive weeks in a newspaper of general circulation published in the county in which the property interest is located, and if there is no newspaper of general circulation in the county, then in a newspaper of general circulation published in an adjoining county, and if there is no such newspaper in an adjoining county, then in a newspaper

of general circulation published at the capital of the state.

(2) The notice of intention to file a claim of abandonment and extinguishment shall contain:

(a) The name and address, if known, of the holder of the mineral interest, as shown of record;

(b) A reference to the instrument originally creating the mineral interest, including where it is recorded;

(c) A description of the lands affected by the mineral interest;

(d) The name and address of the person giving notice;

(e) The date of the first publication of the notice if notice is by publication; and

(f) A statement that a claim of abandonment and extinguishment of the mineral interest will be filed upon the expiration of a period of sixty days after the date of the last publication or the date service was perfected by personal service or registered mail on the current mineral interest owner, unless the current mineral interest owner files a statement of claim of mineral interest in the form prescribed in RCW 78.22.040.

(3) A copy of the notice of intention to file a claim of abandonment and extinguishment and an affidavit of publication shall be submitted to the county auditor within fifteen days after the date of the last publication or the date service was perfected by personal service or registered mail on the current mineral interest owner.

(4) The affidavit of publication shall contain either:

(a) A statement that a copy of the notice has been personally served upon or mailed to the owner of the current mineral interest and the address to which it was mailed; or

(b) If a copy of the notice was not mailed, a detailed description, including dates, of the efforts made to determine with due diligence the address of the current owner of the mineral interest. [1984 c 252 § 5.]

78.22.060 Presumption of extinguishment—Conditions—Statement of claim—Filing, recording, indexing. Upon payment of fees provided in RCW 36.18.010, and if the surface owner files the claim of abandonment and extinguishment, together with a copy of the notice and the affidavit of publication, as required in RCW 78.22.050, in the county auditor's office for the county where such interest is located then the mineral interest shall be conclusively presumed to be extinguished.

If a statement of claim of mineral interest is filed by the current mineral interest owner within the sixty-day period provided in RCW 78.22.050, together with payment of fees provided in RCW 36.18.010, the county auditor shall record, index, and make special notation in the index of the filing. [1984 c 252 § 6.]

78.22.070 Statement of claim—Notice and affidavit of publication—Auditor's duties. Upon receipt, the county auditor shall record a statement of claim or a notice and affidavit of publication in the dormant mineral interest index. When possible, the auditor shall also indicate by marginal notation on the instrument originally creating the mineral interest the recording of the

statement of claim or notice and affidavit of publication. The county auditor shall record a statement of claim by cross-referencing in the dormant mineral interest index the name of the current owner of the mineral interest and the name of the original holder of the mineral interest as set out in the statement of claim. [1984 c 252 § 7.]

78.22.080 Exemptions from claim of abandonment and extinguishment. Mineral interests retained or owned by any public entity or mineral interests resulting from land exchanges between public and private owners shall not be subject to a claim of abandonment and extinguishment. [1984 c 252 § 8.]

78.22.090 Waiver prohibited. The provisions of this chapter may not be waived at any time prior to the expiration of the twenty-year period under RCW 78.22.010. [1984 c 252 § 9.]

Chapter 78.44 SURFACE MINING

Sections

78.44.030	Definitions.
78.44.040	Administration of chapter—Rule-making authority.
78.44.100	Inspections—Permits—Duration of operating permits—Modification of reclamation plan—Successor operators.
78.44.110	Fees.
78.44.120	Performance bonds and other security.
78.44.140	Inspection of permit area—Deficiencies—Extension of performance periods—Performance actions by department—Recovery of expenses—Enforcement.
78.44.160	Enjoining or stopping illegal operations—Penalty—Notice—Remission or mitigation of penalty—Appeal.
78.44.175	Surface mining of coal—Preemption of chapter by federal laws, programs.
78.44.900	Repealed.

78.44.030 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Surface mining" shall mean all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and including the production of surface mining refuse. For the purpose of this chapter surface mining shall mean those operations described in this paragraph from which more than ten thousand tons of minerals are produced or more than two acres of land is newly disturbed within a period of twelve consecutive calendar months. Surface mining shall not include excavation or removal of sand, gravel, clay, rock or other materials in remote areas by an owner or holder of a possessory interest in land for the primary purpose of construction or maintenance of access roads to or on such landowner's property. Surface mining shall not include excavation or grading conducted for farming, on-site road construction or other on-site construction, but shall include adjacent or off-site borrow pits except

those on landowner's property for use on access roads on such property. Prospecting and exploration activities shall be included within the definition of surface mining when they are of such nature and extent as to exceed the qualifying sizes listed above or when collectively they disturb more than one acre per eight acres of land area.

(2) "Unit of surface mined area" shall mean the area of land and water covered by each operating permit that is actually newly disturbed by surface mining during each twelve-month period of time, beginning at the date of issuance of the permit, and shall comprise the area from which overburden and/or minerals have been removed, the area covered by spoil banks, and all additional areas used in surface mining operations which by virtue of such use are thereafter susceptible to excessive erosion.

(3) "Abandonment of surface mining" shall mean a cessation of surface mining, not set forth in an operator's plan of operation or by any other sufficient written notice, extending for more than six consecutive months or when, by reason of examination of the premises or by any other means, it becomes the opinion of the department of natural resources that the operation has in fact been abandoned by the operator: *Provided*, That the operator does not, within thirty days of receipt of written notification from the department of his intent to declare the operation abandoned, submit evidence to the department's satisfaction that the operation is in fact not abandoned.

(4) "Minerals" shall mean coal, clay, stone, sand, gravel, metallic ore, and any other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction uses.

(5) "Overburden" shall mean the earth, rock, and other materials that lie above a natural deposit of mineral.

(6) "Surface mining refuse" shall mean all waste soil, rock, mineral, liquid, vegetation, and other material directly resulting from or displaced by the mining, cleaning, or preparation of minerals during the surface mining operations on the operating permit area, and shall include all waste materials deposited on or in the permit area from other sources.

(7) "Spoil bank" shall mean a deposit of excavated overburden or mining refuse.

(8) "Operator" shall mean any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including every public or governmental agency engaged in surface mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(9) "Department" means the department of natural resources.

(10) "Reclamation" shall mean the reasonable protection of all surface resources subject to disruption from surface mining and rehabilitation of the surface resources affected by surface mining. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific

instance, the basic objective will be to reestablish on a continuing basis the vegetative cover, soil stability, water conditions, and safety conditions appropriate to the intended subsequent use of the area.

(11) "Reclamation plan" shall mean the operator's written proposal, as required and approved by the department, for reclamation of the affected resources which shall include, but not be limited to:

(a) A statement of the proposed subsequent use of the land after reclamation and satisfactory evidence that all owners of a possessory interest in the land concur with this proposed use;

(b) Evidence that this subsequent use would not be illegal under local zoning regulations;

(c) Proposed practices to protect adjacent surface resources;

(d) Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;

(e) Manner and type of revegetation or other surface treatment of disturbed areas;

(f) Method of prevention or elimination of conditions that will create a public nuisance, endanger public safety, damage property, or be hazardous to vegetative, animal, fish, or human life in or adjacent to the area;

(g) Method of control of contaminants and disposal of surface mining refuse;

(h) Method of diverting surface waters around the disturbed areas;

(i) Method of restoration of stream channels and stream banks to a condition minimizing erosion and siltation and other pollution;

(j) Such maps and other supporting documents as reasonably required by the department; and

(k) A time schedule for reclamation that meets the requirements of RCW 78.44.090. [1984 c 215 § 1; 1970 ex.s. c 64 § 4.]

78.44.040 Administration of chapter—Rule-making authority. The department of natural resources is charged with the administration of this chapter. In order to implement the chapter's terms and provisions, the department, under the provisions of the administrative procedure act (chapter 34.04 RCW), as now or hereafter amended, may from time to time promulgate those rules and regulations necessary to carry out the purposes of this chapter. [1984 c 215 § 2; 1970 ex.s. c 64 § 5.]

78.44.100 Inspections—Permits—Duration of operating permits—Modification of reclamation plan—Successor operators. Upon receipt of an application for a permit, the surface mining site must be inspected by a representative of the department. Within twenty-five days of receipt of the application and reclamation plan by the department and receipt of the permit fee, the department shall either issue an operating permit to the applicant or return any incomplete or inadequate application to the applicant along with a description of the deficiencies.

Failure to act within the twenty-five day period on the reclamation plan shall not be cause for a denial of a permit. The department shall set the amount of the bond or other security required for a permit governing the surface mining operation set forth in the application.

If the department refuses to approve a reclamation plan in the form submitted by the operator, it shall notify the operator, in writing, stating the reasons for its refusal and listing such additional requirements to the operator's reclamation plan as are necessary for the approval of the plan by the department. Within thirty days, the operator shall either accept such additional requirements as part of the reclamation plan or file notice of appeal.

The operating permit shall be granted for the period required to mine the land covered by the plan and shall be valid until the surface mining authorized by the permit is completed or abandoned, unless the permit is suspended by the department as provided in this chapter. The operating permit shall provide that the reclamation plan may be modified, after timely notice and opportunity for hearing, at any time during the term of the permit for any of the following reasons:

(1) To modify the requirements so that they will not conflict with existing laws;

(2) The department determines that the previously adopted reclamation plan is clearly impossible or impracticable to implement and maintain;

(3) The department determines that the previously adopted reclamation plan is obviously not accomplishing the intent of this chapter; or

(4) The operator and the department mutually agree to change the reclamation plan.

When one operator succeeds to the interest of another in any uncompleted surface mining operation by sale, assignment, lease, or otherwise, the department may release the first operator from the duties imposed upon him by this chapter as to such operation: *Provided*, That both operators have complied with the requirements of this chapter and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the department shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this chapter. [1984 c 215 § 3; 1970 ex.s. c 64 § 11.]

78.44.110 Fees. The permit fees required under this chapter shall be as follows:

(1) The basic fee for the permit shall be two hundred fifty dollars per permit year for each separate location, payable with submission of the application and annually thereafter with submission of the report required in RCW 78.44.130.

(2) In addition, there shall be a five dollar per acre fee for all acreage exceeding ten acres which was newly disturbed by surface mining during the previous permit year, which acreage fee shall be paid at the time of submission of the report required in RCW 78.44.130.

(3) All fees collected shall be deposited in the general fund. [1984 c 215 § 4; 1970 ex.s. c 64 § 12.]

78.44.120 Performance bonds and other security. Upon receipt of an operating permit an operator other than a public or governmental agency shall not commence surface mining until the operator has deposited with the department an acceptable performance bond on forms prescribed and furnished by the department. This performance bond shall be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under the provisions of chapter 48.28 RCW and approved by the department. The bond shall be filed and maintained in an amount equal to the estimated cost of completing the reclamation plan for the area to be surface mined during the next twelve-month period and any previously surface mined area for which a permit has been issued and on which the reclamation has not been satisfactorily completed and approved. If an operator increases the area to be surface mined during the twelve month period, the department may increase the amount of the bond to compensate for the increase. The department shall have the authority to determine the amount of the bond that shall be required, and for any reason may refuse any bond not deemed adequate.

The bond shall be conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations adopted under it.

In lieu of the surety bond required by this section the operator may file with the department a cash deposit, negotiable securities acceptable to the department, an assignment of a savings account or of a savings certificate in a Washington bank on an assignment form prescribed by the department, or bank letters of credit acceptable to the department.

Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released prior thereto as hereinafter provided. Liability under the bond may be released only upon written notification from the department. Notification shall be given upon completion of compliance or acceptance by the department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

A public or governmental agency shall not be required to post a bond under the terms of this chapter.

A blanket performance bond covering two or more surface mining operations may be submitted by an operator in lieu of separate bonds for each separate operation. [1984 c 215 § 5; 1977 c 66 § 1; 1970 ex.s. c 64 § 13.]

78.44.140 Inspection of permit area—Deficiencies—Extension of performance periods—Performance actions by department—Recovery of expenses—Enforcement. Upon receipt of the operator's report, and at any other reasonable time the department may elect, the department shall cause the permit area to be inspected to determine if the operator has complied with the reclamation plan and the department's rules and regulations.

The operator shall proceed with reclamation as scheduled in the reclamation plan. Following any written notice by the department noting deficiencies, the operator shall commence action within thirty days, or as directed by the department if it has determined that emergency actions are required, to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected: *Provided*, That deficiencies that also violate other laws that require earlier rectification shall be corrected in accordance with the applicable time provisions of such laws. The department may extend performance periods referred to in this section and in RCW 78.44.090, for delays clearly beyond the operator's control, but only when the operator is, in the opinion of the department, making every reasonable effort to comply.

Within thirty days after notification by the operator and when in the judgment of the department reclamation of a unit of surface mined area is properly completed, the mining operator shall be notified in writing and his bond on said area shall be released or decreased proportionately.

If reclamation of surface mined land is not proceeding in accordance with the reclamation plan and the operator has not commenced action to rectify deficiencies within thirty days after notification by the department or as directed by the department, or if reclamation is not properly completed in conformance with the reclamation plan within two years after completion or abandonment of surface mining on any segment of the permit area, the department is authorized, with the staff, equipment and material under his control, or by contract with others, to take such actions as are necessary for the reclamation of the surface mined areas. If the department intends to undertake the reclamation, the department shall ascertain the probable costs of reclamation and shall notify the operator, the surety, and the owner of the probable costs. The operator or surety, or both, shall pay that amount to the department for reclaiming the surface mined land. The department shall keep a record of all necessary expenses incurred in carrying out any project or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials utilized.

The department shall notify the operator, the owner, and the surety by order. The order shall state the amount of necessary expenses incurred by the department in reclaiming the surface mined land and a notice that the amount is due and payable to the department by the operator and the surety to the extent that the amount has not already been paid. The department shall refund all amounts received above the amount of expenses incurred.

If the amount specified in the notice or order is not paid within thirty days after receipt of the notice, the attorney general, upon request of the department, shall bring an action on behalf of the state in the superior court for Thurston county or any county in which the persons to whom the notice or order is directed do business to recover the amount specified. The surety shall be liable to the state to the extent of the bond.

The amount owed the department by the operator for the reclamation performed by the state may be recovered by a lien against the reclaimed property, which may be enforced in the same manner and with the same effect as a mechanic's lien.

In addition to the other liabilities imposed by this chapter, failure to commence action to rectify deficiencies in reclamation within thirty days after notification by the department or failure satisfactorily to complete reclamation work on any segment of the permit area within two years after completion or abandonment of surface mining on any segment of the permit area shall constitute sufficient grounds for cancellation of a permit and refusal to issue another permit to the delinquent operator until such deficiencies are corrected by the operator. [1984 c 215 § 6; 1970 ex.s. c 64 § 15.]

78.44.160 Enjoining or stopping illegal operations—Penalty—Notice—Remission or mitigation of penalty—Appeal. When the department finds that an operator is conducting surface mining on an area for which a valid operating permit is not in effect, or is conducting surface mining in any manner not authorized by his operating permit or by the rules and regulations adopted by the department, the department may forthwith order such operator to suspend all such operations until compliance is effected or assured to the satisfaction of the department. In the event the operator fails or declines to obey such order, the operator shall be subject to a civil penalty in an amount of not more than five hundred dollars for each violation. Every day on which a failure or declining to obey the order continues is a separate violation.

The penalty provided for in this section shall be imposed by notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of the penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion considers proper, provided the department considers the remission or mitigation to be in the best interests of carrying out the purposes of this chapter.

A person incurring a penalty under this section may appeal the penalty as provided in RCW 78.44.170. The appeal shall be filed within thirty days of receipt of notice imposing the penalty unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, the appeal shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application.

A penalty imposed under this section becomes due and payable thirty days after receipt of a notice imposing the penalty unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, the penalty becomes due and payable thirty days after receipt of

notice setting forth the disposition of the application unless an appeal is filed from the disposition. If an appeal of the penalty is filed, the penalty becomes due and payable only upon completion of all review proceedings provided for in RCW 78.44.170 and the issuance of a final decision by the department confirming the penalty in whole or in part.

If the penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or any county in which the person incurring the penalty does business, to recover the penalty. In all such actions the procedures and rules of evidence shall be the same as in an ordinary civil action except as otherwise provided in this chapter. The attorney general shall forthwith take the necessary legal action to enjoin, or otherwise cause to be stopped, such conduct of surface mining. [1984 c 215 § 7; 1970 ex.s. c 64 § 17.]

78.44.175 Surface mining of coal—Preemption of chapter by federal laws, programs. In the event state law is preempted under federal surface mining laws relating to surface mining of coal or the department of natural resources determines that a federal program and its rules and regulations relating to the surface mining of coal are as stringent and effective as the provisions of this chapter, the provisions of this chapter shall not apply to such surface mining for which federal permits are issued until such preemption ceases or the department determines such chapter should apply. [1984 c 215 § 8.]

78.44.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 79 PUBLIC LANDS

Chapters

79.01	Public lands act.
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Chapter 79.01 PUBLIC LANDS ACT

Sections

79.01.135	Contract for sale of rock, gravel, etc.—Royalties—Consideration of flood protection value.
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79.01.216	Sale procedure—Terms—Deferred payments, rate of interest.
79.01.242	Lease of state lands—General.
79.01.612	Management of acquired lands—Rental—Repairs.

79.01.135 Contract for sale of rock, gravel, etc.—Royalties—Consideration of flood protection value. Whenever, pursuant to RCW 79.01.134, the commissioner of public lands enters into a contract for the sale and removal of rock, gravel, sand, or silt out of a riverbed, the commissioner shall, when establishing a royalty, take into consideration flood protection value to the public that will arise as a result of such removal. [1984 c 212 § 10.]

79.01.216 Sale procedure—Terms—Deferred payments, rate of interest. All state lands shall be sold on terms and conditions established by the board of natural resources in light of market conditions. Sales by real estate contract or for cash may be authorized. All deferred payments shall draw interest at such rate as may be fixed, from time to time, by rule adopted by the board of natural resources, and the rate of interest, as so fixed at the date of each sale, shall be stated in all advertising for and notice of sale and in the contract of sale. All remittances for payment of either principal or interest shall be forwarded to the department of natural resources. [1984 c 222 § 11; 1982 1st ex.s. c 21 § 159; 1969 ex.s. c 267 § 1; 1959 c 257 § 24; 1927 c 255 § 54; RRS § 7797–54. Prior: 1917 c 149 § 1; 1915 c 147 § 3; 1907 c 256 § 3; 1897 c 89 § 16; 1895 c 178 §§ 25, 29. Formerly RCW 79.12.380.]

Severability—Effective date—1984 c 222: See RCW 79.66.900 and 79.66.901.

Savings—Captions—Severability—Effective dates—1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

79.01.242 Lease of state lands—General. (1) Subject to other provisions of this chapter and subject to rules adopted by the board of natural resources, the department may lease state lands for purposes it deems advisable, including, but not limited to, commercial, industrial, residential, agricultural, and recreational purposes in order to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust. Every lease issued by the department, shall contain: (a) The specific use or uses to which the land is to be employed; (b) the improvements required: *Provided*, That a minimum reasonable time is allowed for the completion of the improvements; (c) the rent is payable in advance in quarterly, semiannual, or annual payments, as determined by the department or as agreed upon by the lessee and the department of natural resources; (d) other terms and conditions as the department deems advisable, subject to review by the board of natural resources, to more nearly effectuate the purposes of the state Constitution and of this chapter.

(2) The department may authorize the use of state land by lease at state auction for initial leases or by negotiation for existing leases. Notice of intent to lease by negotiation shall be published in at least two newspapers of general circulation in the area in which the land

which is to be the subject of negotiation is located within the ninety days immediately preceding commencement of negotiations.

(3) Leases which authorize commercial, industrial, or residential uses on state lands may be entered into by negotiation. Negotiations shall be subject to rules of the board of natural resources. At the option of the department, these leases may be placed for bid at public auction.

(4) Any person, firm or corporation desiring to lease any state lands for any purpose not prohibited by law, may make application to the department, describing the lands sought to be leased on forms to be provided by the department.

(5) Notwithstanding any provision in this chapter to the contrary, in leases for residential purposes, the board of natural resources may waive or modify any conditions of the lease if the waiver or modification is necessary to enable any federal agency or lending institution authorized to do business in this state or elsewhere in the United States to participate in any loan secured by a security interest in a leasehold interest.

(6) Upon expiration of the lease term, if the leased land is not otherwise utilized, the department may allow the lessee to continue to hold the land for a period not exceeding one year upon such rent, terms, and conditions as the department may prescribe. Upon the expiration of the one year extension, if the department has not yet determined the disposition of the land for other purposes, the department may issue a temporary permit to the lessee upon terms and conditions it prescribes. The temporary permit may not extend beyond a five year period. [1984 c 222 § 12; 1979 ex.s. c 109 § 10.]

Reviser's note: This section does not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters. See RCW 79.01.093.

Severability—Effective date—1984 c 222: See RCW 79.66.900 and 79.66.901.

Severability—Effective date—1979 ex.s. c 109: See notes following RCW 79.01.036.

79.01.612 Management of acquired lands—Rental—Repairs. The department of natural resources shall manage and control all lands acquired by the state by escheat or under chapter 79.66 RCW and all lands acquired by the state by deed of sale or gift or by devise, except such lands which are conveyed or devised to the state to be used for a particular purpose. The department shall lease the lands in the same manner as school lands. When the department determines to sell the lands, they shall be initially offered for sale at public auction as provided in this chapter. If the lands are not sold at public auction, the department may, with approval of the board of natural resources, market the lands through persons licensed under chapter 18.85 RCW or through other commercially feasible means at a price not lower than the land's appraised value and pay necessary marketing costs from the sale proceeds. Necessary marketing costs includes reasonable costs associated with advertising the property and paying commissions. The proceeds of the lease or sale of all such lands shall be deposited into the appropriate fund in the state treasury

in the manner prescribed by law: *Provided*, That if the grantor in any such deed or the testator in case of a devise specifies that the proceeds of the sale or lease of such lands be devoted to a particular purpose such proceeds shall be so applied. The department may employ agents to rent any escheated, deeded, or devised lands, or lands acquired under chapter 79.66 RCW, for such rental and time and in such manner as the department directs, but the property shall not be rented by such agent for a longer period than one year and no tenant is entitled to compensation for any improvement which he makes on such property. The agent shall cause repairs to be made to the property as the department directs, and shall deduct the cost thereof, together with such compensation and commission as the department authorizes, from the rentals of such property and the remainder which is collected shall be transmitted monthly to the department of natural resources. [1984 c 222 § 13; 1927 c 255 § 154; RRS § 7797-154. Formerly RCW 43.12.100.]

Severability—Effective date—1984 c 222: See RCW 79.66.900 and 79.66.901.

Real property distributed to state by probate court decree, jurisdiction of commissioner of public lands over: RCW 11.08.220.

Chapter 79.08

GENERAL PROVISIONS

Sections

79.08.275	Management and control of portion of Milwaukee Road corridor.
79.08.277	Milwaukee Road corridor—Recreational use—Permit—Rules—Fees.
79.08.279	Powers with respect to Milwaukee Road corridor.
79.08.281	Leasing of portions of Milwaukee Road corridor—Duties with respect to unleased portions.
79.08.283	Authority to terminate or modify leases—Notice.

79.08.275 Management and control of portion of Milwaukee Road corridor. The portion of the Milwaukee Road corridor from the western end of the tunnel located in the southeast corner of section 20, township 19 north, range 17 east, W.M., approximately twenty-five miles east of the western terminus, to the Idaho border purchased by the state shall be under the management and control of the department of natural resources. [1984 c 174 § 6.]

Purpose—1984 c 174: See note following RCW 43.51.405.

79.08.277 Milwaukee Road corridor—Recreational use—Permit—Rules—Fees. The portion of the Milwaukee Road corridor under management and control of the department of natural resources shall be open to individuals or organized groups which obtain permits from the department of natural resources to travel the corridor for recreational purposes. The department of natural resources shall, for the purpose of issuing permits for corridor use, promulgate rules necessary for the orderly and safe use of the corridor and protection of adjoining landowners. Permit fees shall be established at a level that will cover costs of issuance.

Upon request of abutting landowners, the department shall notify the landowners of permits issued for use of the corridor adjacent to their property. [1984 c 174 § 7.]

Purpose—1984 c 174: See note following RCW 43.51.405.

79.08.279 Powers with respect to Milwaukee Road corridor. The department of natural resources 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 in consultation with local legislative authorities or fire districts;

(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 (a) such a sale or exchange will not adversely affect the recreational, transportation or utility potential of the corridor and (b) the department has not entered into a lease of the property in accordance with RCW 79.08.281. [1984 c 174 § 8.]

Purpose—1984 c 174: See note following RCW 43.51.405.

79.08.281 Leasing of portions of Milwaukee Road corridor—Duties with respect to unleased portions. (1)

The department of natural resources shall offer to lease, and shall subsequently lease if a reasonable offer is made, portions of the Milwaukee Road corridor under its control to the person who owns or controls the adjoining land for periods of up to ten years commencing with June 7, 1984. The lessee shall assume the responsibility for fire protection, weed control, and maintenance of water conveyance facilities and culverts. The leases shall follow standard department of natural resources leasing procedures, with the following exceptions:

(a) The lessee may restrict public access pursuant to RCW 79.08.277 and 79.08.281(3).

(b) The right of renewal shall be to the current lessee if the lessee still owns or controls the adjoining lands.

(c) If two persons own or control opposite sides of the corridor, each person shall be eligible for equal portions of the available property.

(2) The department of natural resources has the authority to renew leases in existence on June 7, 1984.

(3) The leases shall contain a provision allowing the department of natural resources to issue permits to travel the corridor for recreational purposes.

(4) Unleased portions of the Milwaukee Road property under this section shall be managed by the department of natural resources. On these unleased portions, the department solely shall be responsible for weed control, culvert, bridge, and other necessary maintenance and fire protection services. The department shall place hazard warning signs and close hazardous structures on

unleased portions and shall regulate activities and restrict uses, including closing the corridor during seasons of high fire danger. [1984 c 174 § 9.]

Purpose—1984 c 174: See note following RCW 43.51.405.

79.08.283 Authority to terminate or modify leases—**Notice.** The state, through the department of natural resources, shall reserve the right to terminate a lease entered into pursuant to RCW 79.08.281 or modify authorized uses of the corridor for future recreation, transportation, or utility uses. If the state elects to terminate the lease, the state shall provide the lessee with a minimum of six months' notice. [1984 c 174 § 10.]

Purpose—1984 c 174: See note following RCW 43.51.405.

Chapter 79.24

CAPITOL BUILDING LANDS

Sections

79.24.160	Use of proceeds specified.
79.24.580	Deposit, use of proceeds from sale or lease of aquatic lands or valuable materials therefrom—Aquatic lands enhancement account created—Capitol purchase and development account created. (Effective October 1, 1984.)

79.24.160 Use of proceeds specified. Proceeds of the bonds issued hereunder shall be expended by the state capitol committee in the completion of the Deschutes Basin project adjacent to the state capitol grounds. The project shall embrace: (1) The acquisition by purchase or condemnation of necessary lands or easements; (2) the construction of a dam or weir along the line of Fifth Avenue in the city of Olympia and a parkway and railroad over the same; (3) the construction of a parkway on the west bank of the Deschutes Basin from the Pacific highway at the Deschutes River to a connection with the Olympic highway; (4) the construction of a parkway from the vicinity of Ninth Avenue and Columbia Street in the city of Olympia around the south side of the north Deschutes Basin, using the existing railroad causeway, to a road along Percival Creek and connecting with the Olympic highway; (5) the preservation of the precipitous banks surrounding the basin by the acquisition of easements or other rights whereby the cutting of trees and the building of structures on the banks can be controlled; (6) the construction by dredging of varying level areas at the foot of the bluffs for access to water and to provide for boating and other recreational areas, and (7) such other undertakings as, in the judgment of the committee, are necessary to the completion of the project.

In connection with the establishment of parkways, causeways, streets, and highways, or the relocation thereof, and the rerouting of railroads to effectuate the general plan of the basin project, the committee shall at all times cooperate with the department of transportation, the proper authorities of the city of Olympia, and the railroad companies which may be involved in the rerouting of railway lines. [1984 c 7 § 370; 1947 c 186 § 7; Rem. Supp. 1947 § 7921-16.]

Severability—1984 c 7: See note following RCW 47.01.141.

79.24.580 Deposit, use of proceeds from sale or lease of aquatic lands or valuable materials therefrom—Aquatic lands enhancement account created—Capitol purchase and development account created. (Effective October 1, 1984.) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be distributed as follows: (1) Forty percent shall be deposited in the aquatic lands enhancement account of the general fund which is hereby created. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects; and (2) the remainder shall be deposited in the capitol purchase and development account of the general fund, the creation of which is hereby authorized or, in the event that revenue bonds are issued as authorized by RCW 79.24.630 through 79.24.647, into the state building bond redemption fund pursuant to RCW 79.24.638. [1984 c 221 § 24; 1982 2nd ex.s. c 8 § 4; 1969 ex.s. c 273 § 12; 1967 ex.s. c 105 § 3; 1961 c 167 § 9.]

Severability—**Effective date**—1984 c 221: See RCW 79.90.901 and 79.90.902.

Severability—1969 ex.s. c 273: See RCW 79.24.647.

Chapter 79.66

LAND BANK

Sections

79.66.010	Legislative finding.
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79.66.030	Exchange or sale of property held in land bank.
79.66.040	Management of property held in land bank.
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79.66.060	Reimbursement for costs and expenses.
79.66.070	Land bank technical advisory committee.
79.66.080	Identification of trust lands expected to convert to commercial, residential, or industrial uses—Hearing—Notice—Designation as urban lands.
79.66.090	Exchange of urban land for land bank land—Purchase by county, city, town, or state agency.
79.66.100	Lands for commercial, industrial, or residential use—Payment of in-lieu of property tax—Distribution.
79.66.900	Severability—1984 c 222.
79.66.901	Effective date—1984 c 222.

79.66.010 Legislative finding. The legislature finds that from time to time it may be desirable for the department of natural resources to sell state lands which have low potential for natural resource management or low income-generating potential or which, because of geographic location or other factors, are inefficient for the department to manage. However, it is also important to acquire lands for long-term management to replace

those sold so that the publicly owned land base will not be depleted and the publicly owned forest land base will not be reduced. The purpose of this chapter is to provide a means to facilitate such sales and purchases so that the diversity of public uses on the trust lands will be maintained. In making the determinations, the department shall comply with local land use plans and applicable growth management principles. [1984 c 222 § 1; 1977 ex.s. c 109 § 1.]

79.66.020 Land bank—Created—Purchase of property authorized. The department of natural resources, with the approval of the board of natural resources, may purchase property at fair market value to be held in a land bank, which is hereby created within the department. Property so purchased shall be property which would be desirable for addition to the public lands of the state because of the potential for natural resource or income production of the property. The total acreage held in the land bank shall not exceed one thousand five hundred acres. [1984 c 222 § 2; 1977 ex.s. c 109 § 2.]

79.66.030 Exchange or sale of property held in land bank. The department of natural resources, with the approval of the board of natural resources, may:

(1) Exchange property held in the land bank for any other public lands of equal value administered by the department of natural resources, including any lands held in trust.

(2) Exchange property held in the land bank for property of equal or greater value which is owned publicly or privately, and which has greater potential for natural resource or income production or which could be more efficiently managed by the department, however, no power of eminent domain is hereby granted to the department; and

(3) Sell property held in the land bank in the manner provided by law for the sale of state lands without any requirement of platting and to use the proceeds to acquire property for the land bank which has greater potential for natural resource or income production or which would be more efficiently managed by the department. [1984 c 222 § 3; 1977 ex.s. c 109 § 3.]

79.66.040 Management of property held in land bank. The department of natural resources may manage the property held in the land bank as provided in RCW 79.01.612: *Provided*, That such properties or interest in such properties shall not be withdrawn, exchanged, transferred, or sold without first obtaining payment of the fair market value of the property or interest therein or obtaining property of equal value in exchange. [1984 c 222 § 4; 1977 ex.s. c 109 § 4.]

79.66.050 Appropriation of funds from forest development account or resource management cost account—Use of income. The legislature may authorize appropriation of funds from the forest development account or the resource management cost account for the purposes of this chapter. Income from the sale or management of property in the land bank shall be returned

as a recovered expense to the forest development account or the resource management cost account and may be used to acquire property under RCW 79.66.020. [1984 c 222 § 5; 1977 ex.s. c 109 § 5.]

Forest development account: RCW 76.12.110.

Resource management cost account: RCW 79.64.020.

79.66.060 Reimbursement for costs and expenses. The department of natural resources shall be reimbursed for actual costs and expenses incurred in managing and administering the land bank program under this chapter from the forest development account or the resource management cost account in an amount not to exceed the limits provided in RCW 79.64.040. Reimbursement from proceeds of sales shall be limited to marketing costs provided in RCW 79.01.612. [1984 c 222 § 6.]

79.66.070 Land bank technical advisory committee.

(1) There is created a land bank technical advisory committee, consisting of three members. Membership shall consist of: One member qualified by experience and training in matters pertaining to land use planning and real estate appointed by the commissioner of public lands, one member qualified by experience and training in public trust matters appointed by the superintendent of public instruction, and one member qualified by experience and training in financial matters appointed by the state treasurer.

(2) The technical advisory committee shall provide professional advice and counsel to the board of natural resources regarding land bank sales, purchases, and exchanges involving urban property.

(3) Members of the technical advisory committee shall be appointed for five-year terms and shall serve until a successor is appointed. In the case of a vacancy the vacancy shall be filled by the appointing authority. The initial term of the appointee of the commissioner shall expire in three years. The initial term of the appointee of the superintendent shall expire in four years. The initial term of the appointee of the treasurer shall expire in five years. All terms expire December 31.

(4) Members of the technical advisory committee shall be reimbursed for travel expenses incurred in the performance of their duties under RCW 43.03.050 and 43.03.060. [1984 c 222 § 7.]

79.66.080 Identification of trust lands expected to convert to commercial, residential, or industrial uses—

Hearing—Notice—Designation as urban lands. Periodically, at intervals to be determined by the board of natural resources, the department of natural resources shall identify trust lands which are expected to convert to commercial, residential, or industrial uses within ten years. The department shall adhere to existing local comprehensive plans, zoning classifications, and duly adopted local policies when making this identification and determining the fair market value of the property.

The department shall hold a public hearing on the proposal in the county where the state land is located. At least fifteen days but not more than thirty days before the hearing, the department shall publish a 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 trust land is located. At the same time that the published notice is given, the department shall give written notice of the hearings to the departments of fisheries, game, parks and recreation, and general administration, and to the county, city, or town in which the property is situated. The department shall disseminate a news release pertaining to the hearing among printed and electronic media in the area where the trust land is located. The public notice and news release also shall identify trust lands in the area which are expected to convert to commercial, residential, or industrial uses within ten years.

A summary of the testimony presented at the hearings shall be prepared for the board's consideration. The board of natural resources shall designate trust lands which are expected to convert to commercial, residential, or industrial uses as urban land. Descriptions of lands designated by the board shall be made available to the county and city or town in which the land is situated and for public inspection and copying at the department's administrative office in Olympia, Washington and at each area office.

The hearing and notice requirements of this section apply to those trust lands which have been identified by the department prior to July 1, 1984, as being expected to convert to commercial, residential, or industrial uses within the next ten years, and which have not been sold or exchanged prior to July 1, 1984. [1984 c 222 § 8.]

79.66.090 Exchange of urban land for land bank land—Purchase by county, city, town, or state agency. If the department of natural resources determines to exchange urban land for land bank land, the county, city, or town in which the land is situated, and state agencies, shall be notified in writing of the determination. The county, city, town, or state agency has sixty days from the date of notice by the department to submit an application to purchase the land and shall be afforded an opportunity of up to one year, as determined by the board of natural resources, to purchase the land from the land bank at fair market value. The board of natural resources, if it deems it in the best interest of the state, may extend the period under terms and conditions as the board determines. If competing applications are received from governmental entities, the board shall select the application which results in the highest monetary value. [1984 c 222 § 9.]

79.66.100 Lands for commercial, industrial, or residential use—Payment of in-lieu of property tax—Distribution. Lands purchased by the department of natural resources for commercial, industrial, or residential use shall be subject to payment of in-lieu of real property tax for the period in which they are held in the land bank. The in-lieu payment shall be equal to the property

taxes which would otherwise be paid if the land remained subject to the tax. Payment shall be made at the end of the calendar year to the county in which the land is located. If a parcel is not held in the land bank for the entire year, the in-lieu payment shall be reduced proportionately to reflect only that period of time in which the land was held in the land bank. The county treasurer shall distribute the in-lieu payments proportionately in accordance with RCW 84.56.230 as though such moneys were receipts from ad valorem property taxes. [1984 c 222 § 10.]

79.66.900 Severability—1984 c 222. 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 222 § 15.]

79.66.901 Effective date—1984 c 222. 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, 1984. [1984 c 222 § 16.]

Chapter 79.72

SCENIC RIVER SYSTEM

Sections

79.72.020 Definitions—Committee of participating agencies.

79.72.020 Definitions—Committee of participating agencies. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or the executive's designee, of each of the state departments of ecology, fisheries, game, natural resources, and transportation, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above the land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater run-off peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless the rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. The visual corridor shall not exceed the river area. [1984 c 7 § 371; 1977 ex.s. c 161 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

- 79.90.520 Aquatic lands—Administrative review of proposed rent. (Effective October 1, 1984.)
- 79.90.525 Aquatic lands—Security for leases for more than one year. (Effective October 1, 1984.)
- 79.90.530 Aquatic lands—Payment of rent. (Effective October 1, 1984.)
- 79.90.535 Aquatic lands—Interest on overdue sums. (Effective October 1, 1984.)
- 79.90.540 Adoption of rules. (Effective October 1, 1984.)
- 79.90.545 Application to existing property rights—Application of Shoreline Management Act. (Effective October 1, 1984.)
- 79.90.901 Severability—1984 c 221.
- 79.90.902 Effective date—1984 c 221.

79.90.450 Aquatic lands—Findings. (Effective October 1, 1984.) The legislature finds that state-owned aquatic lands are a finite natural resource of great value and an irreplaceable public heritage. The legislature recognizes that the state owns these aquatic lands in fee and has delegated to the department of natural resources the responsibility to manage these lands for the benefit of the public. The legislature finds that water-dependent industries and activities have played a major role in the history of the state and will continue to be important in the future. The legislature finds that revenues derived from leases of state-owned aquatic lands should be used to enhance opportunities for public recreation, shoreline access, environmental protection, and other public benefits associated with the aquatic lands of the state. The legislature further finds that aquatic lands are faced with conflicting use demands. The purpose of RCW 79.90.450 through 79.90.545 is to articulate a management philosophy to guide the exercise of the state's ownership interest and the exercise of the department's management authority, and to establish standards for determining equitable and predictable lease rates for users of state-owned aquatic lands. [1984 c 221 § 1.]

79.90.455 Aquatic lands—Management guidelines. (Effective October 1, 1984.) The management of state-owned aquatic lands shall be in conformance with constitutional and statutory requirements. The manager of state-owned aquatic lands shall strive to provide a balance of public benefits for all citizens of the state. The public benefits provided by aquatic lands are varied and include:

- (1) Encouraging direct public use and access;
- (2) Fostering water-dependent uses;
- (3) Ensuring environmental protection;
- (4) Utilizing renewable resources.

Generating revenue in a manner consistent with subsections (1) through (4) of this section is a public benefit. [1984 c 221 § 2.]

79.90.460 Aquatic lands—Preservation and enhancement of water-dependent uses—Leasing authority. (Effective October 1, 1984.) (1) The management of state-owned aquatic lands shall preserve and enhance water-dependent uses. Water-dependent uses shall be favored over other uses in aquatic land planning and in resolving conflicts between competing lease applications.

Chapter 79.90

AQUATIC LANDS—IN GENERAL

Sections

- 79.90.450 Aquatic lands—Findings. (Effective October 1, 1984.)
- 79.90.455 Aquatic lands—Management guidelines. (Effective October 1, 1984.)
- 79.90.460 Aquatic lands—Preservation and enhancement of water-dependent uses—Leasing authority. (Effective October 1, 1984.)
- 79.90.465 Definitions. (Effective October 1, 1984.)
- 79.90.470 Aquatic lands—Use for public utility lines—Use for public parks or public recreation purposes—Lease of tidelands in front of public parks. (Effective October 1, 1984.)
- 79.90.475 Management of certain aquatic lands by port district—Agreement—Rent—Model management agreement. (Effective October 1, 1984.)
- 79.90.480 Determination of annual rent rates for lease of aquatic lands for water-dependent uses. (Effective October 1, 1984.)
- 79.90.485 Log storage rents. (Effective October 1, 1984.)
- 79.90.490 Rent for leases in effect October 1, 1984. (Effective October 1, 1984.)
- 79.90.495 Rents and fees for aquatic lands used for aquaculture production and harvesting. (Effective October 1, 1984.)
- 79.90.500 Aquatic lands—Rents for nonwater-dependent uses—Rents and fees for the recovery of mineral or geothermal resources. (Effective October 1, 1984.)
- 79.90.505 Aquatic lands—Rents for multiple uses. (Effective October 1, 1984.)
- 79.90.510 Aquatic lands—Lease for water-dependent use—Rental for nonwater-dependent use. (Effective October 1, 1984.)
- 79.90.515 Aquatic lands—Rent for improvements. (Effective October 1, 1984.)

In cases of conflict between water-dependent uses, priority shall be given to uses which enhance renewable resources, water-borne commerce, and the navigational and biological capacity of the waters, and to state-wide interests as distinguished from local interests.

(2) Nonwater-dependent use of state-owned aquatic lands is a low-priority use providing minimal public benefits and shall not be permitted to expand or be established in new areas except in exceptional circumstances where it is compatible with water-dependent uses occurring in or planned for the area.

(3) The department shall consider the natural values of state-owned aquatic lands as wildlife habitat, natural area preserve, representative ecosystem, or spawning area prior to issuing any initial lease or authorizing any change in use. The department may withhold from leasing lands which it finds to have significant natural values, or may provide within any lease for the protection of such values.

(4) The power to lease state-owned aquatic lands is vested in the department of natural resources, which has the authority to make leases upon terms, conditions, and length of time in conformance with the state Constitution and chapters 79.90 through 79.96 RCW.

(5) State-owned aquatic lands shall not be leased to persons or organizations which discriminate on the basis of race, color, creed, religion, sex, age, or physical or mental handicap. [1984 c 221 § 3.]

79.90.465 Definitions. (Effective October 1, 1984.) The definitions in this section apply throughout chapters 79.90 through 79.96 RCW.

(1) "Water-dependent use" means a use which cannot logically exist in any location but on the water. Examples include, but are not limited to, water-borne commerce; terminal and transfer facilities; ferry terminals; watercraft sales in conjunction with other water-dependent uses; watercraft construction, repair, and maintenance; moorage and launching facilities; aquaculture; log booming; and public fishing piers and parks.

(2) "Water-oriented use" means a use which historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, fish processing, petroleum refining, sand and gravel processing, log storage, and house boats. For the purposes of determining rent under this chapter, water-oriented uses shall be classified as water-dependent uses if the activity either is conducted on state-owned aquatic lands leased on October 1, 1984, or was actually conducted on the state-owned aquatic lands for at least three years before October 1, 1984. If, after October 1, 1984, the activity is changed to a use other than a water-dependent use, the activity shall be classified as a nonwater-dependent use. If continuation of the existing use requires leasing additional state-owned aquatic lands and is permitted under the shoreline management act of 1971, chapter 90.58 RCW, the department may allow reasonable expansion of the water-oriented use.

(3) "Nonwater-dependent use" means a use which can operate in a location other than on the waterfront. Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility.

(4) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in water-borne commerce, but does not include the temporary holding of logs to be taken directly into a vessel or processing facility.

(5) "Log booming" means placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in water-borne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a processing facility. "Log booming" does not include the temporary holding of logs to be taken directly into a vessel.

(6) "Department" means the department of natural resources.

(7) "Port district" means a port district created under Title 53 RCW.

(8) The "real rate of return" means the average for the most recent ten calendar years of the average rate of return on conventional real property mortgages as reported by the federal home loan bank board or any successor agency, minus the average inflation rate for the most recent ten calendar years.

(9) The "inflation rate" for a given year is the percentage rate of change in the previous calendar year's all commodity producer price index of the bureau of labor statistics of the United States department of commerce. If the index ceases to be published, the department shall designate by rule a comparable substitute index.

(10) "Public utility lines" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers, including sewer outfall lines.

(11) "Terminal" means a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of cargo and/or passengers.

(12) "State-owned aquatic lands" means those aquatic lands and waterways administered by the department of natural resources or managed under RCW 79.90.475 by a port district. "State-owned aquatic lands" does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department of natural resources. [1984 c 221 § 4.]

79.90.470 Aquatic lands—Use for public utility lines—Use for public parks or public recreation purposes—Lease of tidelands in front of public parks. (Effective October 1, 1984.) The use of state-owned aquatic lands for public utility lines owned by a governmental entity shall be granted without charge by an agreement, permit, or other instrument if the use is consistent with the purposes of RCW 79.90.450 through 79.90.460 and does not obstruct navigation or other public uses. Use for public parks or public recreation

purposes shall be granted without charge if the aquatic lands and improvements are available to the general public on a first-come, first-served basis and are not managed to produce a profit for the operator or a concessionaire. The department may lease state-owned tidelands that are in front of state parks only with the approval of the state parks and recreation commission. The department may lease bedlands in front of state parks only after the department has consulted with the state parks and recreation commission. [1984 c 221 § 5.]

79.90.475 Management of certain aquatic lands by port district—Agreement—Rent—Model management agreement. (Effective October 1, 1984.) Upon request of a port district, the department and port district may enter into an agreement authorizing the port district to manage state-owned aquatic lands abutting or used in conjunction with and contiguous to uplands owned, leased, or otherwise managed by a port district, for port purposes as provided in Title 53 RCW. Such agreement shall include, but not be limited to, provisions defining the specific area to be managed, the term, conditions of occupancy, reservations, periodic review, and other conditions to ensure consistency with the state Constitution and the policies of this chapter. If a port district acquires operating management, lease, or ownership of real property which abuts state-owned aquatic lands currently under lease from the state to a person other than the port district, the port district shall manage such aquatic lands if: (1) The port district acquires the leasehold interest in accordance with state law, or (2) the current lessee and the department agree to termination of the current lease to accommodate management by the port. The administration of aquatic lands covered by a management agreement shall be consistent with the aquatic land policies of chapters 79.90 through 79.96 RCW and the implementing regulations adopted by the department. The administrative procedures for management of the lands shall be those of Title 53 RCW.

No rent shall be due the state for the use of state-owned aquatic lands managed under this section for water-dependent or water-oriented uses. If a port district manages state-owned aquatic lands under this section and either leases or otherwise permits any person to use such lands, the rental fee attributable to such aquatic land only shall be comparable to the rent charged lessees for the same or similar uses by the department: *Provided*, That a port district need not itemize for the lessee any charges for state-owned aquatic lands improved by the port district for use by carriers by water. If a port leases state-owned aquatic lands to any person for non-water-dependent use, eighty-five percent of the revenue attributable to the rent of the state-owned aquatic land only shall be paid to the state.

Upon application for a management agreement, and so long as the application is pending and being diligently pursued, no rent shall be due the department for the lease by the port district of state-owned aquatic lands included within the application for water-dependent or water-oriented uses.

The department and representatives of the port industry shall develop a proposed model management agreement which shall be used as the basis for negotiating the management agreements required by this section. The model management agreement shall be reviewed and approved by the board of natural resources. [1984 c 221 § 6.]

79.90.480 Determination of annual rent rates for lease of aquatic lands for water-dependent uses. (Effective October 1, 1984.) Except as otherwise provided by this chapter, annual rent rates for the lease of state-owned aquatic lands for water-dependent uses shall be determined as follows:

(1)(a) The assessed land value, exclusive of improvements, as determined by the county assessor, of the upland tax parcel used in conjunction with the leased area or, if there are no such uplands, of the nearest upland tax parcel used for water-dependent purposes divided by the parcel area equals the upland value.

(b) The upland value times the area of leased aquatic lands times thirty percent equals the aquatic land value.

(2) As of July 1, 1989, and each July 1 thereafter, the department shall determine the real capitalization rate to be applied to water-dependent aquatic land leases commencing or being adjusted under subsection (3)(a) of this section in that fiscal year. The real capitalization rate shall be the real rate of return, except that until June 30, 1989, the real capitalization rate shall be five percent and thereafter it shall not change by more than one percentage point in any one year or be more than seven percent or less than three percent.

(3) The annual rent shall be:

(a) Determined initially, and redetermined every four years or as otherwise provided in the lease, by multiplying the aquatic land value times the real capitalization rate; and

(b) Adjusted by the inflation rate each year in which the rent is not determined under subsection (3)(a) of this section.

(4) If the upland parcel used in conjunction with the leased area is not assessed or has an assessed value inconsistent with the purposes of the lease, the nearest comparable upland parcel used for similar purposes shall be substituted and the lease payment determined in the same manner as provided in this section.

(5) For the purposes of this section, "upland tax parcel" is a tax parcel, some portion of which has upland characteristics. Filled tidelands or shorelands with upland characteristics which abut state-owned aquatic land shall be considered as uplands in determining aquatic land values.

(6) The annual rent for filled state-owned aquatic lands that have the characteristics of uplands shall be determined in accordance with RCW 79.90.500 in those cases in which the state owns the fill and has a right to charge for the fill. [1984 c 221 § 7.]

79.90.485 Log storage rents. (Effective October 1, 1984.) (1) Until June 30, 1989, the log storage rents per acre shall be the average rents the log storage leases in

effect on July 1, 1984, would have had under the formula for water-dependent leases as set out in RCW 79.90.480, except that the aquatic land values shall be thirty percent of the assessed value of the abutting upland parcels exclusive of improvements, if they are assessed. If the abutting upland parcel is not assessed, the nearest assessed upland parcel shall be used.

(2) On July 1, 1989, and every four years thereafter, the base log storage rents established under subsection (1) of this section shall be adjusted in proportion to the change in average water-dependent lease rates per acre since the date the log storage rates were last established under this section.

(3) The annual rent shall be adjusted by the inflation rate each year in which the rent is not determined under subsection (1) or (2) of this section.

(4) If the lease provides for seasonal use so that portions of the leased area are available for public use without charge part of the year, the annual rent may be discounted to reflect such public use in accordance with rules adopted by the board of natural resources. [1984 c 221 § 8.]

79.90.490 Rent for leases in effect October 1, 1984. (Effective October 1, 1984.) For leases in effect on October 1, 1984, the rent shall remain at the annual rate in effect on September 30, 1984, until the next lease anniversary date, at which time rent established under RCW 79.90.480 or 79.90.485 shall become effective. If the first rent amount established is an increase of more than one hundred dollars and is more than thirty-three percent above the rent in effect on September 30, 1984, the annual rent shall not increase in any year by more than thirty-three percent of the difference between the previous rent and the rent established under RCW 79.90.480 or 79.90.485. If the first rent amount established under RCW 79.90.480 or 79.90.485 is more than thirty-three percent below the rent in effect on September 30, 1984, the annual rent shall not decrease in any year by more than thirty-three percent of the difference between the previous rent and the rent established under RCW 79.90.480 or 79.90.485. Thereafter, notwithstanding any other provision of this title, the annual rental established under RCW 79.90.480 or 79.90.485 shall not increase more than fifty percent in any year.

This section applies only to leases of state-owned aquatic lands subject to RCW 79.90.480 or 79.90.485. [1984 c 221 § 9.]

79.90.495 Rents and fees for aquatic lands used for aquaculture production and harvesting. (Effective October 1, 1984.) If state-owned aquatic lands are used for aquaculture production or harvesting, rents and fees shall be established through competitive bidding or negotiation. [1984 c 221 § 10.]

79.90.500 Aquatic lands—Rents for nonwater-dependent uses—Rents and fees for the recovery of mineral or geothermal resources. (Effective October 1, 1984.) Leases for nonwater-dependent uses of state-

owned aquatic lands shall be charged the fair market rental value of the leased lands, determined in accordance with appraisal techniques specified by rule. However, rents for nonwater-dependent uses shall always be more than the amount that would be charged as rent for a water-dependent use of the same parcel. Rents and fees for the mining or other recovery of mineral or geothermal resources shall be established through competitive bidding, negotiations, or as otherwise provided by statute. [1984 c 221 § 11.]

79.90.505 Aquatic lands—Rents for multiple uses. (Effective October 1, 1984.) If water-dependent and nonwater-dependent uses occupy separate portions of the same leased parcel of state-owned aquatic land, the rental rate for each use shall be that established for such use by this chapter, prorated in accordance with the proportion of the whole parcel that each use occupies. If water-dependent and nonwater-dependent uses occupy the same portion of a leased parcel of state-owned aquatic land, the rental rate for such parcel shall be subject to negotiation with the department taking into account the proportion of the improvements each use occupies. [1984 c 221 § 12.]

79.90.510 Aquatic lands—Lease for water-dependent use—Rental for nonwater-dependent use. (Effective October 1, 1984.) If a parcel leased for water-dependent uses is used for an extended period of time, as defined by rule of the department, for a nonwater-dependent use, the rental for the nonwater-dependent use shall be negotiated with the department. [1984 c 221 § 13.]

79.90.515 Aquatic lands—Rent for improvements. (Effective October 1, 1984.) Except as agreed between the department and the lessee prior to construction of the improvements, rent shall not be charged under any lease of state-owned aquatic lands for improvements, including fills, authorized by the department or installed by the lessee or its predecessor before June 1, 1971, so long as the lands remain under a lease or succession of leases without a period of three years in which no lease is in effect or a bona fide application for a lease is pending.

If improvements were installed under a good faith belief that a state aquatic lands lease was not necessary, rent shall not be charged for the improvements if, within ninety days after specific written notification by the department that a lease is required, the owner either applies for a lease or files suit to determine if a lease is required. [1984 c 221 § 14.]

79.90.520 Aquatic lands—Administrative review of proposed rent. (Effective October 1, 1984.) The manager shall, by rule, provide for an administrative review of any aquatic land rent proposed to be charged. The rules shall require that the lessee or applicant for release file a request for review within thirty days after the manager has notified the lessee or applicant of the rent

due. For leases issued by the department, the final authority for the review rests with the board of natural resources. For leases managed under RCW 79.90.475, the final authority for the review rests with the appropriate port commission. If the request for review is made within thirty days after the manager's final determination as to the rental, the lessee may pay rent at the preceding year's rate pending completion of the review, and shall pay any additional rent or be entitled to a refund, with interest thirty days after announcement of the decision. The interest rate shall be the average rate of return for the prior calendar year on conventional real property mortgages as reported by the federal home loan bank board. Nothing in this section abrogates the right of an aggrieved party to pursue legal remedies including those under chapter 34.04 RCW. For purposes of this section, "manager" is the department except where state-owned aquatic lands are managed by a port district, in which case "manager" is the port district. [1984 c 221 § 15.]

79.90.525 Aquatic lands—Security for leases for more than one year. (Effective October 1, 1984.) For any lease for a term of more than one year, the department may require that the rent be secured by insurance, bond, or other security satisfactory to the department in an amount not exceeding two years' rent. The department may require additional security for other lease provisions. The department shall not require cash deposits exceeding one-twelfth of the annual rental. [1984 c 221 § 16.]

79.90.530 Aquatic lands—Payment of rent. (Effective October 1, 1984.) If the annual rent charged for the use of a parcel of state-owned aquatic lands exceeds four thousand dollars, the lessee may pay on a prorated quarterly basis. If the annual rent exceeds twelve thousand dollars, the lessee may pay on a prorated monthly basis. [1984 c 221 § 17.]

79.90.535 Aquatic lands—Interest on overdue sums. (Effective October 1, 1984.) The lessee shall pay interest at the rate of one percent per month on rent or other sums owing to the department commencing thirty days after the date each rent or other sum is due and payable, unless there is review pending under RCW 79.90.520. [1984 c 221 § 18.]

79.90.540 Adoption of rules. (Effective October 1, 1984.) The department shall adopt such rules as are necessary to carry out the purposes of RCW 79.90.450 through 79.90.535, specifically including criteria for determining under RCW 79.90.480(4) when an abutting upland parcel has been inappropriately assessed and for determining the nearest comparable upland parcel used for water-dependent uses. [1984 c 221 § 19.]

79.90.545 Application to existing property rights—Application of Shoreline Management Act. (Effective October 1, 1984.) Nothing in this chapter or

RCW 79.93.040 or 79.93.060 shall modify or affect any existing legal rights involving the boundaries of, title to, or vested property rights in aquatic lands or waterways. Nothing in this chapter shall modify, alter, or otherwise affect the applicability of chapter 90.58 RCW. [1984 c 221 § 20.]

79.90.901 Severability—1984 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. [1984 c 221 § 31.]

79.90.902 Effective date—1984 c 221. This act shall take effect on October 1, 1984. [1984 c 221 § 32.]

Chapter 79.92

AQUATIC LANDS—HARBOR AREAS

Sections

79.92.040	Repealed. (Effective October 1, 1984.)
79.92.050	Repealed. (Effective October 1, 1984.)
79.92.110	Harbor areas and tidelands within towns—Distribution of rents to municipal authorities. (Effective October 1, 1984.)

79.92.040 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.92.050 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.92.110 Harbor areas and tidelands within towns—Distribution of rents to municipal authorities. (Effective October 1, 1984.) (1) Where any leased harbor area or tideland is situated within the limits of a town, whether or not the harbor area or tideland lies within a port district, the rents from such leases shall be paid by the state treasurer to the municipal authorities of the town to be expended for water-related improvements.

(2) The state treasurer is hereby authorized and directed to make payments to the respective towns on the first days of July and January of each year, of all moneys payable under the terms of this section. [1984 c 221 § 25; 1983 c 153 § 1; 1982 2nd ex.s. c 8 § 2; 1982 1st ex.s. c 21 § 79.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

Effective date—1983 c 153: "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 c 153 § 2.] "This act" consists of the 1983 c 153 amendment to RCW 79.92.110.

Effective date—1982 2nd ex.s. c 8 § 2: "Section 2 of this act shall take effect July 1, 1983." [1982 2nd ex.s. c 8 § 3.] "Section 2 of this act" is the 1982 2nd ex.s. c 8 amendment to RCW 79.92.110.

Chapter 79.93

AQUATIC LANDS—WATERWAYS AND
STREETS

Sections

- 79.93.040 Permits to use waterways. (Effective October 1, 1984.)
 79.93.060 Vacation of waterways—Extension of streets. (Effective October 1, 1984.)
 79.93.070 Copies of waterway permits or leases existing on October 1, 1984, to be delivered to the department—Exception. (Effective October 1, 1984.)

79.93.040 Permits to use waterways. (Effective October 1, 1984.) If the United States government has established pierhead lines within a waterway created under the laws of this state at any distance from the boundaries established by the state, structures may be constructed in that strip of waterway between the waterway boundary and the nearest pierhead line only with the consent of the department of natural resources and upon such plans, terms, and conditions and for such term as determined by the department. However, no permit shall extend for a period longer than thirty years.

The department may cancel any permit upon sixty days' notice for a substantial breach by the permittee of any of the permit conditions.

If a waterway is within the territorial limits of a port district, the duties assigned by this section to the department may be exercised by the port commission of such port district as provided in RCW 79.90.475.

Nothing in this section shall confer upon, create, or recognize in any abutting owner any right or privilege in or to any strip of waterway abutting any street and between prolongations of the lines of such street, but the control of and the right to use such strip is hereby reserved to the state of Washington, except as authorized by RCW 79.90.475. [1984 c 221 § 21; 1982 1st ex.s. c 21 § 83.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

Application to existing property rights: RCW 79.90.545.

79.93.060 Vacation of waterways—Extension of streets. (Effective October 1, 1984.) If a waterway established under the laws of this state, or any portion of the waterway, has not been excavated, or is not used for navigation, or is not required in the public interest to exist as a waterway, such waterway or portion thereof may be vacated by written order of the commissioner of public lands upon request by ordinance or resolution of the city council of the city in which such waterway is located or by resolution of the port commission of the port district in which the waterway is located. If the waterway or portion thereof which is vacated is navigable water of the United States, or otherwise within the jurisdiction of the United States, a copy of such resolution or ordinance, together with a copy of the vacation order of the commissioner of public lands shall be submitted to the United States Army Corps of Engineers for their approval, and if they approve, the waterway or

portion thereof is vacated: *Provided*, That if a port district owns property abutting the waterway and the provisions of this section are otherwise satisfied, the waterway, or the portion thereof that abuts the port district property, shall be vacated.

Upon such vacation of a waterway, the commissioner of public lands shall notify the city in which the waterway is located, and the city has the right, if otherwise permitted by RCW 79.94.150, to extend across the portions so vacated any existing streets, or to select such portions of the waterway as the city may desire for street purposes, in no case to exceed one hundred fifty feet in width for any one street. Such selection shall be made within sixty days subsequent to the receipt of notice of the vacation of the portion of the waterway.

If the city fails to make a selection within such time, or selects only a portion of the waterway, the title of the remaining portions of the vacated waterway shall vest in the state, unless the waterway is located within the territorial limits of a port district, in which event, if otherwise permitted by RCW 79.94.150, the title shall vest in the port district. The title is subject to any railroad or street railway crossings existing at the time of such vacation. [1984 c 221 § 22; 1982 1st ex.s. c 21 § 85.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

Application to existing property rights: RCW 79.90.545.

79.93.070 Copies of waterway permits or leases existing on October 1, 1984, to be delivered to the department—Exception. (Effective October 1, 1984.) Copies of waterway permits or leases in existence on October 1, 1984, shall be delivered to the department of natural resources except in those cases in which the port district enters into an agreement authorizing management of state-owned aquatic land as provided in RCW 79.90.475. [1984 c 221 § 23.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

Chapter 79.94

AQUATIC LANDS—TIDELANDS AND
SHORELANDS

Sections

- 79.94.180 through 79.94.200 Repealed. (Effective October 1, 1984.)

79.94.180 through 79.94.200 Repealed. (Effective October 1, 1984.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 79.96

AQUATIC LANDS—OYSTERS, GEODUCKS,
SHELLFISH, AND OTHER AQUACULTURAL USES

Sections

- 79.96.900 Decodified. (Effective October 1, 1984.)

- 79.96.906 Intensive management plan for geoducks—Evaluation of program—Report—1984 c 221. (Effective October 1, 1984.)
- 79.96.907 Evaluation of seaweed aquaculture program—Report—1984 c 221. (Effective October 1, 1984.)

79.96.900 Decodified. (Effective October 1, 1984.)
See Supplementary Table of Disposition of Former RCW Sections, this volume.

79.96.906 Intensive management plan for geoducks—Evaluation of program—Report—1984 c 221. (Effective October 1, 1984.) The department of natural resources may enter into agreements with the department of fisheries for the development of an intensive management plan for geoducks including the development and operation of a geoduck hatchery.

The department of natural resources shall evaluate the progress of the intensive geoduck management program and provide a written report to the legislature by December 1, 1990, for delivery to the appropriate standing committees. The evaluation shall determine the benefits and costs of continued operation of the program, and shall discuss alternatives including continuance, modification, and termination of the intensive geoduck management program. [1984 c 221 § 26.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

79.96.907 Evaluation of seaweed aquaculture program—Report—1984 c 221. (Effective October 1, 1984.) The department of natural resources shall evaluate the progress of the seaweed aquaculture program and provide a written report to the legislature by December 1, 1987, for delivery to the appropriate standing committees. The evaluation shall determine the benefits and costs of continued operation of the program, and shall discuss alternatives including continuance, modification, and termination of the seaweed aquaculture program. The expenditure of state funds for seaweed aquaculture shall, after June 30, 1989, be limited to those funds received pursuant to RCW 79.64.040 which are derived from commercial seaweed leases of state aquatic lands, unless otherwise expressly provided by law. [1984 c 221 § 27.]

Severability—Effective date—1984 c 221: See RCW 79.90.901 and 79.90.902.

Title 80

PUBLIC UTILITIES

Chapters

- 80.04 Regulations—General.**
80.28 Gas, electrical, and water companies.
80.50 Energy facilities—Site locations.

Underground utilities, records of location: Chapter 19.122 RCW.

Chapter 80.04

REGULATIONS—GENERAL

Sections

- 80.04.130 Suspension of tariff changes—Special provisions for mandatory measured telephone service.

80.04.130 Suspension of tariff changes—Special provisions for mandatory measured telephone service. (1) Except as provided in subsection (3) of this section, whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justice thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) The implementation of mandatory local measured telephone service is a major policy change in available telephone service. The commission shall not approve, prior to June 1, 1985, any filings which are under suspension as of February 16, 1984, which are awaiting an order by the commission, or which are filed on or after February 16, 1984, if the filing involuntarily requires any telephone user to pay for all outgoing local telephone calls based on time and/or distance. As to any such filing, the requirements in subsection (1) of this section for the commission to act on that filing within ten months from the date the filing would otherwise go into effect are suspended under this subsection from February 16, 1984, until June 1, 1985. This subsection shall not apply to any service such as land, marine, or air mobile service, or any like service that has traditionally been offered on a measured-service basis. [1984 c 3 § 2; 1961 c 14 § 80.04.130. Prior: 1941 c 162 § 1; 1937 c 169 § 2; 1933 c 165 § 3; 1915 c 133 § 1; 1911 c 117 § 82; Rem. Supp. 1941 § 10424.]

Chapter 80.28

GAS, ELECTRICAL, AND WATER COMPANIES

Sections

- 80.28.010 Duties as to rates, services, and facilities—Limitations on termination of utility service for residential heating.
- 80.28.011 Report to legislature—Expiration of section—1984 c 251.

80.28.010 Duties as to rates, services, and facilities—Limitations on termination of utility service for residential heating. (1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable.

(4) Until June 30, 1986:

(a) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(i) Notifies the utility of the inability to pay the bill. This notice shall be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances;

(ii) Brings a statement from the department of social and health services or a grantee of the *planning and community affairs agency which administers federally funded energy assistance programs, that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and which provides a dollar figure that is seven percent of household income;

(iii) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(iv) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is applicable for the dwelling;

(v) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15 and to pay for continued utility service. The plan shall not require monthly payments in excess of seven percent of the customer's monthly income during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but the plan shall not be invalidated unless payment during this period is less than seven percent. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(vi) Agrees to pay the moneys owed even if he or she moves.

(b) The utility shall:

(i) Include in any notice that an account is delinquent and that service may be subject to termination [and] a description of the customer's duties in this subsection;

(ii) Assist the customer in fulfilling the requirements under this subsection;

(iii) Be authorized to transfer an account to a new residence when a customer who has established a plan

under this subsection moves from one residence to another within the same utility service area; and

(iv) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection.

(d) A payment plan implemented under this subsection is consistent with RCW 80.28.080.

(5) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan.

(6) Every gas company, electrical company and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public. [1984 c 251 § 4; 1961 c 14 § 80.28.010. Prior: 1911 c 117 § 26; RRS § 10362.]

Reviser's note: *(1) "Planning and community affairs agency" means "department of community development." See RCW 43.63A.045.

(2) Subsection (4)(c) of this section was vetoed.

80.28.011 Report to legislature—Expiration of section—1984 c 251. Until 1986, the Washington utilities and transportation commission shall report annually to the legislature for utilities subject to its jurisdiction: (1) The extent to which chapter 251, Laws of 1984 benefits low income persons, and (2) the costs and benefits to other customers.

This section shall expire June 30, 1986. [1984 c 251 § 7.]

Reviser's note: Chapter 251, Laws of 1984 consists of the amendments to RCW 35.21.300 and 80.28.010 and the enactment of RCW 35.21.301, 54.16.285, 54.16.286, 54.16.290, and 80.28.011.

Chapter 80.50

ENERGY FACILITIES—SITE LOCATIONS

Sections

80.50.030 Energy facility site evaluation council—Created—Membership.

Regulation of dangerous wastes associated with energy facilities: RCW 70.105.110.

80.50.030 Energy facility site evaluation council—Created—Membership. (1) There is created and established the energy facility site evaluation council.

(2) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The salary of the chairman shall be determined under RCW 43.03.040. The chairman is a "state employee" for the purposes of chapter 42.18 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments,

agencies, commissions, and committees or their statutory successors:

- (a) Department of ecology;
- (b) Department of fisheries;
- (c) Department of game;
- (d) Department of parks and recreation;
- (e) Department of social and health services;
- (f) State energy office;
- (g) Department of commerce and economic development;
- (h) Utilities and transportation commission;
- (i) Office of financial management;
- (j) Department of natural resources;
- (k) Department of community development;
- (l) *Department of emergency services;
- (m) Department of agriculture;
- (n) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person. [1984 c 125 § 18; 1984 c 7 § 372; 1977 ex.s. c 371 § 3; 1975-'76 2nd ex.s. c 108 § 31; 1974 ex.s. c 171 § 46; 1970 ex.s. c 45 § 3.]

Reviser's note: (1) This section was amended by 1984 c 7 § 372 and by 1984 c 125 § 18, 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) "Department of emergency services" redesignated "department of emergency management" by 1984 c 38. See RCW 38.52.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Severability—1984 c 7: See note following RCW 47.01.141.

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

Title 81 TRANSPORTATION

Chapters

- 81.04** Regulations—General.
- 81.28** Common carriers in general.
- 81.34** Railroads—State and federal regulation.
- 81.53** Railroads—Crossings.
- 81.68** Auto transportation companies.
- 81.72** Taxicab companies.
- 81.80** Motor freight carriers.
- 81.96** Western regional short-haul air transportation compact.

Chapter 81.04

REGULATIONS—GENERAL

Sections

- 81.04.130 Suspension of tariff changes.
- 81.04.150 Remunerative rates, change without approval prohibited.
- 81.04.250 Determination of rates.

81.04.130 Suspension of tariff changes. Whenever any public service company, other than a railroad company, files with the commission any schedule, classification, rule, or regulation, the effect of which is to change any rate, fare, charge, rental, or toll previously charged, the commission has power, either upon its own motion or upon complaint, upon notice, to hold a hearing concerning the proposed change and the reasonableness and justness of it. Pending the hearing and the decision the commission may suspend the operation of the rate, fare, charge, rental, or toll, if the change is proposed by a common carrier subject to the jurisdiction of the commission, for a period not exceeding seven months, and, if proposed by a public service company other than such a common carrier, for a period not exceeding ten months from the time the change would otherwise go into effect. After a full hearing the commission may make such order in reference to the change as would be provided in a hearing initiated after the change had become effective.

At any hearing involving any change in any schedule, classification, rule, or regulation the effect of which is to increase any rate, fare, charge, rental, or toll theretofore charged, the burden of proof to show that such increase is just and reasonable is upon the public service company. When any common carrier subject to the jurisdiction of the commission files any tariff, classification, rule, or regulation the effect of which is to decrease any rate, fare, or charge, the burden of proof to show that such decrease is just and reasonable is upon the common carrier. [1984 c 143 § 1; 1961 c 14 § 81.04.130. Prior: 1941 c 162 § 1; 1937 c 169 § 2; 1933 c 165 § 3; 1915 c 133 § 1; 1911 c 117 § 82; Rem. Supp. 1941 § 10424.]

Severability—1984 c 143: See RCW 81.34.900.

81.04.150 Remunerative rates, change without approval prohibited. Whenever the commission finds, after hearing had upon its own motion or upon complaint as

provided in this chapter, that any rate, toll, rental, or charge that has been the subject of complaint and inquiry is sufficiently remunerative to the public service company, other than a railroad company, affected by it, the commission may order that the rate, toll, rental, or charge shall not be changed, altered, abrogated, or discontinued, nor shall there be any change in the classification that will change or alter the rate, toll, rental, or charge without first obtaining the consent of the commission authorizing the change to be made. [1984 c 143 § 2; 1961 c 14 § 81.04.150. Prior: 1911 c 117 § 84; RRS § 10426.]

Severability—1984 c 143: See RCW 81.34.900.

81.04.250 Determination of rates. The commission has the power upon complaint or upon its own motion to prescribe and authorize just and reasonable rates for the transportation of persons or property by carriers other than railroad companies, and shall exercise that power whenever and as often as it deems necessary or proper. The commission shall, before any hearing is had upon the complaint or motion, notify the complainants and the carrier concerned of the time and place of the hearing by giving at least ten days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of prescribing and authorizing the rates. The notice is sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

In exercising this power the commission may use any standard, formula, method, or theory of valuation reasonably calculated to arrive at the objective of prescribing and authorizing just and reasonable rates.

In the exercise of this power the commission may give consideration, in addition to other factors, to the following:

- (1) To the effect of the rates upon movement of traffic by the carriers;
- (2) To the public need for adequate transportation facilities, equipment, and service at the lowest level of charges consistent with the provision, maintenance, and renewal of the facilities, equipment and service; and
- (3) To the carrier need for revenue of a level that under honest, efficient, and economical management is sufficient to cover the cost (including all operating expenses, depreciation accruals, rents, and taxes of every kind) of providing adequate transportation service, plus an amount equal to the percentage of that cost as is reasonably necessary for the provision, maintenance, and renewal of the transportation facilities or equipment and a reasonable profit to the carrier. The relation of carrier expenses to carrier revenues may be deemed the proper test of a reasonable profit.

This section does not apply to railroad companies, which shall be regulated in this regard by chapter 81.34 RCW and rules adopted thereunder. [1984 c 143 § 3; 1961 c 14 § 81.04.250. Prior: 1951 c 75 § 1; 1933 c 165 § 4; 1913 c 182 § 1; 1911 c 117 § 92; RRS § 10441.]

Severability—1984 c 143: See RCW 81.34.900.

Chapter 81.28

COMMON CARRIERS IN GENERAL

Sections

81.28.040	Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules.
81.28.050	Tariff changes—Statutory notice—Exception.
81.28.180	Rate discrimination prohibited.
81.28.190	Unreasonable preferences prohibited.
81.28.200	Long and short haul.
81.28.230	Commission to fix just, reasonable, and compensatory rates.

81.28.040 Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules. Every common carrier shall file with the commission and shall print and keep open for public inspection, schedules showing the rates, fares, charges, and classification for the transportation of persons and property within the state between each point upon the carrier's route and all other points thereon; and between each point upon its route and all points upon every route leased, operated, or controlled by it; and between each point on its route or upon any route leased, operated, or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers participating in the through route shall file, print, and keep open for public inspection, the separately established rates, fares, charges, and classifications that apply to the through transportation. The schedules printed shall plainly state the places between which property and persons will be carried, shall also contain classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges that the commission may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations that may in any way change, affect, or determine any part, or the aggregate of, such rates, fares, and charges, or the value of the service rendered to the passenger, shipper, or consignee. The schedule shall be plainly printed in large type, and a copy of it shall be kept by every carrier readily accessible to inspection by the public in every station or office of the carrier where passengers or property are respectively received for transportation, when the station or office is in charge of any agent. All or any of the schedules kept as provided in this section shall be immediately produced by the carrier for inspection upon the demand of any person. A notice printed in bold type and stating that the schedules are on file with the agent and open to inspection by any person and that the agent will assist any person to determine from the schedules any transportation rates or fares or rules or regulations that are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of each schedule shall be prescribed by the commission.

The commission has power, from time to time, to determine and prescribe by order such changes in the form

of the schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting, and filing of schedules either in particular instances or by general rule or order applicable to special or peculiar circumstances or conditions.

The commission may, in its discretion, suspend the operation of this section in whole or in part as applied to vessels engaged in jobbing business not operating on regular routes. This section does not apply to rail transportation contracts regulated by RCW 81.34.070 or to railroad services or transactions exempted under RCW 81.34.110. [1984 c 143 § 4; 1961 c 14 § 81.28.040. Prior: 1911 c 117 § 14; RRS § 10350.]

Severability—1984 c 143: See RCW 81.34.900.

81.28.050 Tariff changes—Statutory notice—

Exception. Unless the commission otherwise orders, no change may be made in any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier other than a rail carrier, except after thirty days' notice to the commission and to the public. The notice shall be published as provided in RCW 81.28.040 and shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rate, classification, fare, or charge will go into effect. All proposed changes shall be shown by printing, filing, and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. In the case of a change proposed by a rail carrier, except for changes to rail contracts between a rail carrier and a shipper authorized under RCW 81.34.070, which changes become effective in accordance with that section, a proposal resulting in a rate increase or a new rate shall not become effective for twenty days after the notice is published, and a proposal resulting in a rate decrease shall not become effective for ten days after the notice is published. The commission, for good cause shown, may by order allow changes in rates without requiring the notice and the publication time periods specified in this section. When any change is made in any rate, fare, charge, classification, rule, or regulation, attention shall be directed to the change by some character on the schedule. The character and its placement shall be designated by the commission. The commission may, by order, for good cause shown, allow changes in any rate, fare, charge, classification, rule, or regulation without requiring any character to indicate each and every change to be made. [1984 c 143 § 5; 1981 c 116 § 1; 1961 c 14 § 81.28.050. Prior: 1957 c 205 § 3; 1911 c 117 § 15; RRS § 10351.]

Severability—1984 c 143: See RCW 81.34.900.

81.28.180 Rate discrimination prohibited. A common carrier shall not, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect, or receive from any person or corporation a greater or lesser compensation for any service rendered or to be rendered in the transportation of persons or property, except as authorized in this title, than it charges, demands, collects, or receives from any

person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions. This section does not apply to railroad companies, which shall be regulated in this regard by chapter 81.34 RCW and rules adopted thereunder. [1984 c 143 § 6; 1961 c 14 § 81.28.180. Prior: 1911 c 117 § 20; RRS § 10356.]

Severability—1984 c 143: See RCW 81.34.900.

81.28.190 Unreasonable preferences prohibited. A common carrier shall not make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. This section does not apply to railroad companies, which shall be regulated in this regard by chapter 81.34 RCW and rules adopted thereunder. [1984 c 143 § 7; 1961 c 14 § 81.28.190. Prior: 1911 c 117 § 21; RRS § 10357.]

Severability—1984 c 143: See RCW 81.34.900.

81.28.200 Long and short haul. A common carrier subject to the provisions of this title shall not charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property, for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates, subject to the provisions of this title. This shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. Upon application of a common carrier the commission may by order authorize it to charge less for a longer than for a shorter distance for the transportation of persons or property in special cases after investigation by the commission, but the order must specify and prescribe the extent to which the common carrier making the application is relieved from the operation of this section. Only to the extent so specified and prescribed is any common carrier relieved from the operation and requirements of this section. This section does not apply to railroad companies, which shall be regulated in this regard by chapter 81.34 RCW and rules adopted thereunder. [1984 c 143 § 8; 1961 c 14 § 81.28.200. Prior: 1911 c 117 § 22; RRS § 10358.]

Severability—1984 c 143: See RCW 81.34.900.

81.28.230 Commission to fix just, reasonable, and compensatory rates. Whenever the commission finds, after a hearing had upon its own motion or upon complaint, as provided in this chapter, that the rates, fares, or charges demanded, exacted, charged, or collected by any common carrier for the transportation of persons or property within the state or in connection therewith, or

that the regulations or practices of the common carrier affecting those rates are unjust, unreasonable, unjustly discriminatory, or unduly preferential, or in any way are in violation of the provisions of law, or that the rates, fares, or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine and fix by order the just, reasonable, or sufficient rates, fares, or charges, or the regulations or practices to be thereafter observed and enforced. This section does not apply to railroad companies, which shall be regulated in this regard by chapter 81.34 RCW and rules adopted thereunder. [1984 c 143 § 9; 1961 c 14 § 81.28.230. Prior: 1911 c 117 § 53, part; RRS § 10389, part.]

Severability—1984 c 143: See RCW 81.34.900.

Chapter 81.34 RAILROADS—STATE AND FEDERAL REGULATION

Sections

81.34.010	Policy of Interstate Commerce Commission to be followed in certain areas.
81.34.020	Relationship between this chapter and federal law.
81.34.030	Rates—Market dominance.
81.34.040	Rates—Unreasonable discrimination.
81.34.050	Suspension of schedule, classification, rule, or regulation.
81.34.060	Rate increases—Rules—Adjusted base rate.
81.34.070	Contracts for services and rates—Filing—Approval, disapproval.
81.34.080	Contracts for services and rates—Review proceeding.
81.34.090	Limitation of liability.
81.34.100	Rates for recyclable or recycled materials.
81.34.110	Exemptions from chapter.
81.34.900	Severability—1984 c 143.

81.34.010 Policy of Interstate Commerce Commission to be followed in certain areas. In determining whether a rate established by a railroad company is reasonable for purposes of this title, the commission shall follow the Interstate Commerce Commission policy, which provides that railroad companies shall earn adequate revenues. Further, in regulating railroad company rates under this title, the commission has no jurisdiction over general rate increases, inflation-based rate adjustments, or fuel adjustment surcharges approved by the Interstate Commerce Commission. [1984 c 143 § 10.]

81.34.020 Relationship between this chapter and federal law. The commission shall exercise the authority granted under this chapter to regulate railroads in a manner consistent with the Interstate Commerce Act and in a manner that allows the state of Washington to continue to regulate railroad rates to the maximum extent allowable under federal law and to be certified, in accordance with 49 U.S.C. Sec. 10501 by the federal government to continue such regulation. In compliance with this chapter, the commission, in addition to such other procedures as it may establish, shall administer and follow the provisions of this chapter as nearly as practicable in accordance with the statutes, regulations, and decisions construing federal law. [1984 c 143 § 11.]

81.34.030 Rates—Market dominance. The commission shall use the standards and procedures established in this chapter to determine reasonableness when acting upon any complaint or protest or in any proceeding concerning any railroad's rate or a classification, rule, or practice related to a rate subject to regulation under this chapter. The commission shall adopt rules relating to the determination of market dominance. The rules shall allow rate increases, not subject to suspension, if the rail carrier proposing the increase is found by the commission not to have market dominance. Market dominance is defined as an absence of effective competition from other carriers or modes of transportation for the transportation to which a rate applies.

When a rate for transportation by a rail carrier is challenged as being unreasonably high, the commission shall not make such a finding until it has determined that there is market dominance and that the rate exceeds a maximum reasonable level for the transportation to which the rate applies. A finding of market dominance does not presumptively establish that the proposed rate exceeds a reasonable maximum. [1984 c 143 § 12.]

81.34.040 Rates—Unreasonable discrimination. (1) A railroad company subject to the jurisdiction of the commission may not charge or receive from a person a different compensation by using a special rate, rebate, drawback, or other means, for a service rendered, or to be rendered, than it charges or receives from another person for performing a like or contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances. A railroad company that charges or receives such a different compensation for that service engages in unreasonable discrimination.

(2) A railroad company providing transportation or service subject to the jurisdiction of the commission may not subject a person, place, port, or type of traffic to unreasonable discrimination.

(3) Differences of rates, classifications, rules, and practices of railroad companies subject to the jurisdiction of the commission do not constitute a violation of this section if the differences result from different services provided by rail carriers.

(4) This section does not apply to: (a) Contracts approved under RCW 81.34.070 and 81.34.080; (b) surcharges or cancellations authorized by the Interstate Commerce Commission; (c) separate rates for distinct rail services; (d) rail rates applicable to different routes; or (e) expenses authorized under 49 U.S.C. Sec. 10751 by the Interstate Commerce Commission, except that with respect to rates described in (b), (c), and (d) of this subsection, nothing in this subsection affects the commission's authority under this section with respect to rate relationships between ports or within the same port. [1984 c 143 § 13.]

81.34.050 Suspension of schedule, classification, rule, or regulation. The commission may suspend the filing of a schedule, classification, rule, or regulation by a railroad company only upon complaint and only when it is determined that: (1) It is substantially likely that the

protesting party will prevail on the merits; (2) without suspension the proposed change will cause substantial injury to the protesting party; (3) and because of the peculiar economic circumstances of the protesting party the provisions requiring refund of moneys in excess of amounts found to be reasonable do not protect the protesting party.

The suspension period for a proceeding to determine the reasonableness of a filing by a railroad company shall not exceed five months. If the commission has not reached a final decision at the end of the fifth month after the schedule, classification, rule, or regulation was to become effective, it shall, if suspended take effect, and if in effect, remain in effect and not be subject to suspension. If a suspension is not ordered, but an investigation is instituted, the commission shall require the railroad to account for all amounts received under the increase until final determination is made and the proceeding is completed. The accounting shall specify by whom and for whom the amounts are paid. When the commission makes its final determination, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest. If a rate is suspended and any portion of the rate is later found to be reasonable, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services during the period of suspension, plus interest. Interest, if required, shall be paid at a rate equal to the average yield, on the date the statement is filed, of marketable securities of the federal government having a duration of ninety days. [1984 c 143 § 14.]

81.34.060 Rate increases—Rules—Adjusted base rate. (1) The commission shall adopt rules in conformance with 49 U.S.C. Sec. 10707a allowing: (a) Rate increases not subject to suspension based upon an adjusted base rate of rail carriers in this state, including a cost-adjustment factor; (b) rate increases that do not exceed a specified percentage of the adjusted base rate.

(2) A rate increase under subsection (1)(b) of this section is not subject to suspension except: (a) Upon complaint by an interested party alleging that the rate increase violates the provisions of this chapter; or (b) if the rate increase is equal to or greater than revenue-variable cost percentage limits specified in 49 U.S.C. Sec. 10707a(e).

(3) For the purposes of this chapter "adjusted base rate" has the same meaning with respect to rail carriers in this state as in 49 U.S.C. Sec. 10707a(a). [1984 c 143 § 15.]

81.34.070 Contracts for services and rates—Filing—Approval, disapproval. A railroad company providing transportation of property may enter into a contract with one or more purchasers of that transportation to provide specified services under specified rates and conditions. Contracts, together with summaries of them, shall be filed with the commission under special

rules adopted by the commission relating to contents of contracts, summaries of contracts, and other rules relating thereto. Contents of summaries shall contain non-confidential information and shall be available for public inspection.

Contracts filed under this section shall be approved by the commission to be effective at any date determined by the commission within sixty days after the filing of the contract or if not disapproved in a proceeding under this section, sixty days after filing.

A contract may, after hearing, be disapproved if the commission determines that the contract does any of the following:

(1) As to contracts other than contracts for the transportation of agricultural products, forest products, and paper: (a) Upon complaint filed by a shipper, that the contract unduly impairs the ability of the contracting railroad company or railroad companies to meet their common carrier obligations; (b) upon complaint filed by a port, that the contract harms or causes unjust discrimination against such port.

(2) As to contracts for the transportation of agricultural products, including forest products and paper, upon showing of a shipper: (a) That the railroad company unjustly discriminates against the shipper by refusing to enter into a contract with the shipper for rates and services for transportation of the same type of commodity under similar conditions to the contract at issue, and that the shipper is ready, willing, and able to enter into the contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or (b) that the railroad company provides rates, services, or other practices that constitute destructive competition. For the purpose of making a determination of what constitutes destructive competition, the commission shall consider the difference between contract rates and published single car rates.

(3) As to contracts that apply only to the transportation of agricultural commodities (including forest products but not including wood pulp, woodchips, pulpwood, or paper) the contract may be disapproved if it requires the use of more than forty percent of the capacity of the railroad's owned or leased equipment, by major car type, in the performance of the terms of the contract. On request of a railroad or other party or on its own initiative, the commission may grant relief from the limitation, as it considers appropriate, if it determines that the additional equipment may be made available without harming the railroad company's ability to meet its carrier obligations.

A contract that is approved under this section and transportation under the contract may not be subsequently challenged before the commission or in any court on the grounds that the contract violates a provision of this section. The exclusive remedy for any alleged breach of a contract entered into under this section is in an appropriate state or federal court, unless the parties otherwise agree. [1984 c 143 § 16.]

81.34.080 Contracts for services and rates—Review proceeding. The commission may hold a proceeding

to review contracts filed under RCW 81.34.070 under the following conditions:

(1) Notwithstanding any other provision of law, the proceedings must begin no later than thirty days after the filing of the contract;

(2) A proceeding may be initiated by the commission, or:

(a) By a shipper to determine whether a contract violates RCW 81.34.070(1)(a) or 81.34.070(2) (a) or (b), but only upon a showing of harm to the shipper;

(b) By a port to determine violation of RCW 81.34.070(1)(b), but only upon a showing of harm to the port;

(c) By any person the commission finds has an interest under RCW 81.34.070(3).

If a proceeding is initiated under this section the commission must determine whether the contract is in violation of RCW 81.34.070 within thirty days after commencement of the proceeding. If the commission finds that the contract is not in violation of RCW 81.34.070, the contract shall become effective. If the commission finds that the contract violates RCW 81.34.070, the commission shall disapprove the contract, unless the contract unjustly discriminates against a shipper as stated in RCW 81.34.070(2)(a), in which case the carrier shall be ordered, subject to RCW 81.34.070, to provide rates and services substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence at the proceeding. [1984 c 143 § 17.]

81.34.090 Limitation of liability. In addition to the liability limitations and exceptions allowed under RCW 81.29.020, a railroad company providing transportation or service subject to jurisdiction of the commission may establish rates for transportation of property under which the liability of the carrier for the property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in the written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of the property. [1984 c 143 § 18.]

81.34.100 Rates for recyclable or recycled materials. Notwithstanding any other provision of law, all railroad companies providing transportation subject to the commission's jurisdiction shall maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable-cost ratios that are equal to or less than the average revenue-to-variable-cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return, or both, on capital employed in the business sufficient to attract and retain capital in adequate amounts to provide a sound transportation system. [1984 c 143 § 19.]

81.34.110 Exemptions from chapter. In a matter related to a railroad company providing transportation, the commission shall, upon its own motion or the motion of any interested person, exempt persons, classes of persons, transactions, or service from the provisions of this chapter as the commission determines are appropriate and in the public interest. The commission may begin a proceeding either upon its own motion or upon the motion of any interested person. Exemptions established under this section may be temporary, may be subject to revocation, or may be subject to any other conditions that the commission determines are required in the public interest. [1984 c 143 § 20.]

81.34.900 Severability—1984 c 143. 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 143 § 25.]

Chapter 81.53

RAILROADS—CROSSINGS

Sections

81.53.030	Petition for crossing—Hearing—Order.
81.53.060	Petition for alteration of crossing—Closure of grade crossing without hearing, when.
81.53.240	Scope of chapter.

81.53.030 Petition for crossing—Hearing—Order. Whenever a railroad company desires to cross a highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade. Whenever the legislative authority of a county, or the municipal authorities of a city, or the state officers authorized to lay out and construct state roads, or the state parks and recreation commission, desire to extend a highway across a railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving the petition the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of the investigation, to the end that all parties interested may be present and heard. If the highway involved is a state road or parkway, the secretary of transportation or the state parks and recreation commission shall be notified of the time and place of hearing. The evidence introduced shall be reduced to writing and be filed by the commission. If it finds that it is not practicable to cross the railroad or highway either above or below grade, the commission shall enter a written order in the cause, either granting or denying the right to construct a grade crossing at the point in question. The commission may provide in the order authorizing a grade crossing, or at any subsequent time, that the railroad company shall install and maintain proper signals, warnings, flagmen, interlocking devices, or other devices or means to secure the safety of

the public and its employees. In respect to existing railroad grade crossings over highways the construction of which grade crossings was accomplished other than under a commission order authorizing it, the commission may in any event require the railroad company to install and maintain, at or near each crossing, on both sides of it, a sign known as the sawbuck crossing sign with the lettering "Railroad Crossing" inscribed thereon with a suitable inscription indicating the number of tracks. The sign shall be of standard design conforming to specifications furnished by the Washington state department of transportation. [1984 c 7 § 373; 1961 c 14 § 81.53.030. Prior: 1959 c 283 § 1; 1955 c 310 § 3; prior: 1937 c 22 § 1, part; 1913 c 30 § 3, part; RRS § 10513, part. Formerly RCW 81.52.100.]

Severability—1984 c 7: See note following RCW 47.01.141.

81.53.060 Petition for alteration of crossing—Closure of grade crossing without hearing, when. The mayor and city council, or other governing body of any city or town, or the legislative authority of any county within which there exists any under-crossing, over-crossing, or grade crossing, or where any street or highway is proposed to be located or established across any railroad, or any railroad company whose road is crossed by any highway, may file with the commission their or its petition in writing, alleging that the public safety requires the establishment of an under-crossing or over-crossing, or an alteration in the method and manner of an existing crossing and its approaches, or in the style and nature of construction of an existing over-crossing, under-crossing, or grade crossing, or a change in the location of an existing highway or crossing, the closing or discontinuance of an existing highway crossing, and the diversion of travel thereon to another highway or crossing, or if not practicable, to change the crossing from grade or to close and discontinue the crossing, the opening of an additional crossing for the partial diversion of travel, and praying that this relief may be ordered. If the existing or proposed crossing is on a state road, highway, or parkway, the petition may be filed by the secretary of transportation or the state parks and recreation commission. Upon the petition being filed, the commission shall fix a time and place for hearing the petition and shall give not less than twenty days' notice to the petitioner, the railroad company, and the municipality or county in which the crossing is situated. If the highway involved is a state highway or parkway, like notice shall be given to the secretary of transportation or the state parks and recreation commission. If the change petitioned for requires that private lands, property, or property rights be taken, damaged, or injuriously affected to open up a new route for the highway, or requires that any portion of any existing highway be vacated and abandoned, twenty days' notice of the hearing shall be given to the owner or owners of the private lands, property, and property rights which it is necessary to take, damage, or injuriously affect, and to the owner or owners of the private lands, property, or property rights that will be affected by the proposed vacation and abandonment of the existing highway. The commission shall also cause notice of

the hearing to be published once in a newspaper of general circulation in the community where the crossing is situated, which publication shall appear at least two days before the date of hearing. At the time and place fixed in the notice, all persons and parties interested are entitled to be heard and introduce evidence. In the case of a petition for closure of a grade crossing the commission may order the grade crossing closed without hearing where: (1) Notice of the filing of the petition is posted at, or as near as practical to, the crossing; (2) notice of the filing of the petition is published once in a newspaper of general circulation in the community or area where the crossing is situated, which publication shall appear within the same week that the notice referred to in subsection (1) of this section is posted; and (3) no objections are received by the commission within twenty days from the date of the publication of the notice. [1984 c 7 § 374; 1969 ex.s. c 210 § 8; 1961 c 14 § 81.53.060. Prior: 1937 c 22 § 2, part; 1921 c 138 § 1, part; 1913 c 30 § 4, part; RRS § 10514, part. Formerly RCW 81.52.130.]

Severability—1984 c 7: See note following RCW 47.01.141.

81.53.240 Scope of chapter. Except to the extent necessary to permit participation by first class cities in the grade crossing protective fund, when an election to participate is made as provided in RCW 81.53.261 through 81.53.291, chapter 81.53 RCW is not operative within the limits of first class cities, and does not apply to street railway lines operating on or across any street, alley, or other public place within the limits of any city, except that a street car line outside of cities of the first class shall not cross a railroad at grade without express authority from the commission. The commission may not change the location of a state highway without the approval of the secretary of transportation, or the location of any crossing thereon adopted or approved by the department of transportation, or grant a railroad authority to cross a state highway at grade without the consent of the secretary of transportation. [1984 c 7 § 375; 1969 c 134 § 8; 1961 c 14 § 81.53.240. Prior: (i) 1953 c 95 § 15; 1925 ex.s. c 179 § 3; 1913 c 30 § 21; RRS § 10531. (ii) 1959 c 283 § 7. Formerly RCW 81.52.300 and 81.52.380.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 81.68

AUTO TRANSPORTATION COMPANIES

Sections	
81.68.010	Definitions.
81.68.015	Application of chapter restricted.
81.68.020	Compliance with chapter required.
81.68.030	Regulation by commission.
81.68.045	Excursion service companies—Certificate.
81.68.060	Liability and property damage insurance—Surety bond.

81.68.010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context clearly indicates otherwise.

(1) "Corporation" means a corporation, company, association, or joint stock association.

(2) "Person" means an individual, firm, or a copartnership.

(3) "Auto transportation company" means every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor propelled vehicle not usually operated on or over rails used in the business of transporting persons, and baggage, mail, and express on the vehicles of auto transportation companies carrying passengers, for compensation over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the incorporated limits of any city or town.

(4) "Excursion service company" means every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor propelled vehicle not usually operated on or over rails used in the business of transporting persons for compensation over any public highway in this state from points of origin within the incorporated limits of any city or town or area designated by the commission, to any other location within the state of Washington and returning to that origin. The service shall not pick up or drop off passengers after leaving and before returning to the area of origin. The excursions may or may not be regularly scheduled. Compensation for the transportation offered or afforded shall be computed, charged, or assessed by the excursion service company on an individual fare basis.

(5) "Public highway" means every street, road, or highway in this state.

(6) The words "between fixed termini or over a regular route" mean the termini or route between or over which any auto transportation company usually or ordinarily operates any motor propelled vehicle, even though there may be departure from the termini or route, whether the departures are periodic or irregular. Whether or not any motor propelled vehicle is operated by any auto transportation company "between fixed termini or over a regular route" within the meaning of this section is a question of fact, and the finding of the commission thereon is final and is not subject to review. [1984 c 166 § 1; 1979 c 111 § 16; 1975-'76 2nd ex.s. c 121 § 1; 1969 ex.s. c 210 § 10; 1961 c 14 § 81.68.010. Prior: 1935 c 120 § 1; 1921 c 111 § 1; RRS § 6387.]

Severability—1979 c 111: See note following RCW 46.74.010.

81.68.015 Application of chapter restricted. This chapter does not apply to corporations or persons, their lessees, trustees, receivers, or trustees appointed by any court whatsoever insofar as they own, control, operate, or manage taxicabs, hotel buses, school buses, motor propelled vehicles operated exclusively in transporting agricultural, horticultural, dairy, or other farm products from the point of production to the market, or any other carrier that does not come within the term "auto transportation company" or "excursion service company" as defined in RCW 81.68.010.

This chapter does not apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in Washington in which the original starting point of the vehicle is located, and which operation either alone or in conjunction with another vehicle or vehicles is not a part of any journey beyond the three-mile limit.

This chapter does not apply to commuter ride sharing or ride sharing for the elderly and the handicapped in accordance with RCW 46.74.010, so long as the ride-sharing operation does not compete with nor infringe upon comparable service actually being provided before the initiation of the ride-sharing operation by an existing auto transportation company or excursion service company certificated under this chapter. [1984 c 166 § 2.]

81.68.020 Compliance with chapter required. No corporation or person, their lessees, trustees, or receivers or trustees appointed by any court whatsoever, may engage in the business of operating as a common carrier any motor propelled vehicle for the transportation of persons, and baggage, mail, and express on the vehicles of auto transportation companies carrying passengers, between fixed termini or over a regular route, or the vehicles of an excursion service company between the designated areas of pickup and points of destination, for compensation on any public highway in this state, except in accordance with the provisions of this chapter. [1984 c 166 § 3; 1961 c 14 § 81.68.020. Prior: 1927 c 166 § 1; 1921 c 111 § 2; RRS § 6388.]

81.68.030 Regulation by commission. The commission is vested with power and authority, and it is its duty to supervise and regulate every auto transportation company and every excursion service company in this state as provided in this section. Under this authority, it shall for each auto transportation company and for each excursion service company:

(1) Fix, alter, and amend just, fair, reasonable, and sufficient rates, fares, charges, classifications, rules, and regulations;

(2) Regulate the accounts, service, and safety of operations;

(3) Require the filing of annual and other reports and of other data;

(4) Supervise and regulate the companies in all other matters affecting the relationship between such companies and the traveling and shipping public;

(5) By general order or otherwise, prescribe rules and regulations in conformity with this chapter, applicable to any and all such companies, and within such limits make orders.

The commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate under this chapter, and an opportunity to the holder to be heard, at which it shall be proven that the holder wilfully violates or refuses to observe any of the commission's proper orders, rules, or regulations,

suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter, but the holder of the certificate has all the rights of rehearing, review, and appeal as to the order of the commission as is provided for in RCW 81.68.070. [1984 c 166 § 4; 1961 c 14 § 81.68.030. Prior: 1921 c 111 § 3; RRS § 6389.]

81.68.045 Excursion service companies—Certificate. No excursion service company may operate for the transportation of persons for compensation without first having obtained from the commission under the provisions of this chapter a certificate to do so.

A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able to properly perform the services proposed and conform to the provisions of this chapter and the rules of the commission adopted under this chapter, and that such operations will be consistent with the public interest. However, a certificate shall be granted when it appears to the satisfaction of the commission that the person, firm, or corporation was actually operating in good faith that type of service for which the certificate was sought on January 15, 1983. Any right, privilege, or certificate held, owned, or obtained by an excursion service company may be sold, assigned, leased, transferred, or inherited as other property only upon authorization by the commission. For good cause shown the commission may refuse to issue the certificate, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public interest may require. [1984 c 166 § 5.]

81.68.060 Liability and property damage insurance—Surety bond. In granting certificates to operate any auto transportation company or excursion service company, for transporting for compensation persons and baggage, mail, and express on the vehicles of auto transportation companies or excursion service companies carrying passengers, the commission shall require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state of Washington or a surety bond of a company licensed to write surety bonds in the state of Washington on each motor propelled vehicle used or to be used in transporting persons for compensation, in the amount of not less than one hundred thousand dollars for any recovery for personal injury by one person and not less than three hundred thousand dollars for any vehicle having a capacity of sixteen passengers or less and not less than five hundred thousand dollars for any vehicle having a capacity of seventeen passengers or more for all persons receiving personal injury by reason of at least one act of negligence and not less than fifty thousand dollars for damage to property of any person other than the assured. The commission shall fix the amount of the insurance policy or policies or security deposit giving due consideration to the character and amount of traffic, the number of persons affected, and

the degree of danger that the proposed operation involves. The liability and property damage insurance or surety bond shall be maintained in force on [the] motor propelled vehicle while so used, and each policy for liability or property damage insurance or surety bond required by this section shall be filed with the commission and kept in full force and effect. Failure so to do is cause for the revocation of the certificate. [1984 c 166 § 6; 1977 ex.s. c 298 § 1; 1961 c 14 § 81.68.060. Prior: 1921 c 111 § 5; RRS § 6391.]

Chapter 81.72 TAXICAB COMPANIES

Sections

81.72.200	Legislative intent.
81.72.210	Local regulatory powers listed.
81.72.220	Cooperative agreements, joint regulation.

Transportation of passengers in for hire vehicles: Chapter 46.72 RCW.

81.72.200 Legislative intent. The legislature finds and declares that privately operated taxicab transportation service is a vital part of the transportation system within the state and provides demand-responsive services to state residents, tourists, and out-of-state business people. Consequently, the safety, reliability, and economic viability and stability of privately operated taxicab transportation service are matters of state-wide importance. The regulation of privately operated taxicab transportation services is thus an essential governmental function. Therefore, it is the intent of the legislature to permit political subdivisions of the state to regulate taxicab transportation services without liability under federal antitrust laws. [1984 c 126 § 1.]

81.72.210 Local regulatory powers listed. To protect the public health, safety, and welfare, cities, towns, counties, and port districts of the state may license, control, and regulate privately operated taxicab transportation services operating within their respective jurisdictions. The power to regulate includes:

- (1) Regulating entry into the business of providing taxicab transportation services;
- (2) Requiring a license to be purchased as a condition of operating a taxicab and the right to revoke, cancel, or refuse to reissue a license for failure to comply with regulatory requirements;
- (3) Controlling the rates charged for providing taxicab transportation service and the manner in which rates are calculated and collected, including the establishment of zones as the basis for rates;
- (4) Regulating the routes of taxicabs, including restricting access to airports;
- (5) Establishing safety, equipment, and insurance requirements; and
- (6) Any other requirements adopted to ensure safe and reliable taxicab service. [1984 c 126 § 2.]

81.72.220 Cooperative agreements, joint regulation. A city, town, county, or port district may enter into cooperative agreements with any other city, town, county,

or port district for the joint regulation of taxicabs. Cooperative agreements may provide for, but are not limited to, the granting, revocation, and suspension of joint taxicab licenses. [1984 c 126 § 3.]

Chapter 81.80 MOTOR FREIGHT CARRIERS

Sections

81.80.040 Exempt vehicles.

81.80.040 Exempt vehicles. The provisions of this chapter, except where specifically otherwise provided, and except the provisions providing for licenses, shall not apply to:

(1) Motor vehicles when operated in transportation exclusively within the corporate limits of any city or town of less than ten thousand population unless contiguous to a city or town of ten thousand population or over, nor between contiguous cities or towns both or all of which are less than ten thousand population;

(2) Motor vehicles when operated in transportation wholly within the corporate limits of cities or towns of ten thousand or more but less than thirty thousand population, or between such cities or towns when contiguous, as to which the commission, after investigation and the issuance of an order thereon, has determined that no substantial public interest exists which requires that such transportation be subject to regulation under this chapter;

(3) Motor vehicles when transporting exclusively the United States mail or in the transportation of newspapers or periodicals;

(4) Motor vehicles owned and operated by the United States, the state of Washington, or any county, city, town, or municipality therein, or by any department of them, or either of them;

(5) Motor vehicles specially constructed for towing disabled vehicles or wrecking and not otherwise used in transporting goods for compensation;

(6) Motor vehicles normally owned and operated by farmers in the transportation of their own farm, orchard, or dairy products, including livestock and plant or animal wastes, from point of production to market, or in the infrequent or seasonal transportation by one farmer for another farmer, if their farms are located within twenty miles of each other, of products of the farm, orchard, or dairy, including livestock and plant or animal wastes, or of supplies or commodities to be used on the farm, orchard, or dairy;

(7) Motor vehicles when transporting exclusively water in connection with construction projects only;

(8) Motor vehicles of less than 8,000 pounds gross vehicle weight when transporting exclusively legal documents, pleadings, process, correspondence, depositions, briefs, medical records, photographs, books or papers, cash or checks, when moving shipments of the documents described at the direction of an attorney as part of providing legal services. [1984 c 171 § 1; 1979 ex.s. c 6 § 1; 1963 c 59 § 7; 1961 c 14 § 81.80.040. Prior: 1957 c

205 § 4; 1949 c 133 § 1; 1947 c 263 § 1; 1937 c 166 § 4; 1935 c 184 § 3; Rem. Supp. 1949 § 6382-3.]

Chapter 81.96 WESTERN REGIONAL SHORT-HAUL AIR TRANSPORTATION COMPACT

Sections

81.96.030 Service of secretary of transportation as state member, execution of compact.

81.96.030 Service of secretary of transportation as state member, execution of compact. The secretary of transportation or his designee may serve as the Washington state member to the western regional short-haul air transportation compact and may execute the compact on behalf of this state with any other state or states legally joining therein. [1984 c 7 § 376; 1972 ex.s. c 36 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 82 EXCISE TAXES

Chapters

82.01 Department of revenue.

82.08 Retail sales tax.

82.12 Use tax.

82.14 Counties, cities and metropolitan municipal corporations—Retail sales and use taxes.

82.14C Counties—Tax on nonresidents employed within county. (Effective July 1, 1985.)

82.32 General administrative provisions.

82.34 Pollution control facilities—Tax exemptions and credits.

82.45 Excise tax on real estate sales.

82.49 Watercraft excise tax.

Chapter 82.01 DEPARTMENT OF REVENUE

Sections

82.01.120 Economic and revenue forecast supervisor—Economic and revenue forecasts—Submission of forecasts to governor and legislature.

82.01.125 Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee.

82.01.130 Economic and revenue forecast council—Oversight and approval of economic and revenue forecasts—Alternative forecasts.

82.01.135 Economic and revenue forecast work group—Availability of information to group—Provision of technical support to economic and revenue forecast council—Meetings.

82.01.120 Economic and revenue forecast supervisor—Economic and revenue forecasts—Submission of forecasts to governor and legislature. (1) The director

shall employ an economic and revenue forecast supervisor to supervise the preparation of all economic and revenue forecasts. As used in this section and RCW 82.01.125 and 82.01.130, "supervisor" means the economic and revenue forecast supervisor. Approval by an affirmative vote of at least five members of the economic and revenue forecast council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years, unless the supervisor is reappointed by the director and approved by the economic and revenue forecast council for another three years. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(2) Four times each year the supervisor shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.01.130(2):

- (a) An official state economic and revenue forecast;
- (b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and
- (c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(3) The supervisor shall submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.01.130(3), to the governor and the legislature on or before December 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 20th, and September 20th. [1984 c 138 § 1.]

82.01.125 Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee. The administrator of the legislative evaluation and accountability program committee may request, and the supervisor shall provide, alternative economic and revenue forecasts based on assumptions specified by the administrator. [1984 c 138 § 3.]

Legislative evaluation and accountability program committee: Chapter 44.48 RCW.

82.01.130 Economic and revenue forecast council—Oversight and approval of economic and revenue forecasts—Alternative forecasts. (1) The economic and revenue forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The economic and revenue forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official, optimistic, and pessimistic state economic and revenue forecasts prepared under RCW 82.01.120. If the council is unable to approve a forecast before a date required in RCW

82.01.120, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(3) A council member who does not cast an affirmative vote for approval of the official economic and revenue forecast may request, and the supervisor shall provide, an alternative economic and revenue forecast based on assumptions specified by the member.

(4) Members of the economic and revenue forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 138 § 4.]

82.01.135 Economic and revenue forecast work group—Availability of information to group—Provision of technical support to economic and revenue forecast council—Meetings. (1) To promote the free flow of information and to promote legislative input in the preparation of forecasts, immediate access to all information relating to economic and revenue forecasts shall be available to the economic and revenue forecast work group, hereby created. Revenue collection information shall be available to the economic and revenue forecast work group the first business day following the conclusion of each collection period. The economic and revenue forecast work group shall consist of one staff member selected by the executive head or chairperson of each of the following agencies or committees:

- (a) Department of revenue;
- (b) Office of financial management;
- (c) Legislative budget committee;
- (d) Legislative evaluation and accountability program committee;
- (e) Ways and means committee of the senate; and
- (f) Ways and means committee of the house of representatives.

(2) The economic and revenue forecast work group shall provide technical support to the economic and revenue forecast council. Meetings of the economic and revenue forecast work group may be called by any member of the group for the purpose of assisting the economic and revenue forecast council, reviewing the state economic and revenue forecasts, or reviewing monthly revenue collection data or for any other purpose which may assist the economic and revenue forecast council. [1984 c 138 § 5.]

Chapter 82.08

RETAIL SALES TAX

Sections

82.08.034 Exemptions—Sales of used floating homes or rental or lease of used floating homes.

82.08.034 Exemptions—Sales of used floating homes or rental or lease of used floating homes. The tax imposed by RCW 82.08.020 shall not apply to:

(1) Sales of used floating homes, as defined in RCW 82.45.032;

(2) The renting or leasing of used floating homes, as defined in RCW 82.45.032, when the rental agreement or lease exceeds thirty days in duration. [1984 c 192 § 3.]

Chapter 82.12 USE TAX

Sections

82.12.034 Exemption—Use of used floating homes.

82.12.034 Exemption—Use of used floating homes. The provisions of this chapter shall not apply with respect to the use of used floating homes, as defined in RCW 82.45.032. [1984 c 192 § 4.]

Chapter 82.14 COUNTIES, CITIES AND METROPOLITAN MUNICIPAL CORPORATIONS—RETAIL SALES AND USE TAXES

Sections

82.14.045 Sales and use taxes for public transportation systems.
82.14.200 County sales and use tax equalization account—Created—Allocation procedure.
82.14.210 Municipal sales and use tax equalization account—Created—Allocation procedure.
82.14.220 Figures for apportionments and distributions under RCW 82.14.200 and 82.14.210.

82.14.045 Sales and use taxes for public transportation systems. (1) The legislative body of any city pursuant to RCW 35.92.060, of any county which has created an unincorporated transportation benefit area pursuant to RCW 36.57.100 and 36.57.110, of any public transportation benefit area pursuant to RCW 36.57A.080 and 36.57A.090, of any county transportation authority established pursuant to chapter 36.57 RCW, and of any metropolitan municipal corporation within a class AA county pursuant to chapter 35.58 RCW, may, by resolution or ordinance for the sole purpose of providing funds for the operation, maintenance, or capital needs of public transportation systems and in lieu of the excise taxes authorized by RCW 35.95.040, submit an authorizing proposition to the voters or include such authorization in a proposition to perform the function of public transportation and if approved by a majority of persons voting thereon, fix and impose a sales and use tax in accordance with the terms of this chapter: *Provided*, That no such legislative body shall impose such a sales and use tax without submitting such an authorizing proposition to the voters and obtaining the approval of a majority of persons voting thereon: *Provided further*, That where such a proposition is submitted by a county on behalf of an unincorporated transportation benefit area, it shall be voted upon by the voters residing within the boundaries of such unincorporated transportation benefit

area and, if approved, the sales and use tax shall be imposed only within such area. Notwithstanding any provisions of this section to the contrary, any county in which a county public transportation plan has been adopted pursuant to RCW 36.57.070 and the voters of such county have authorized the imposition of a sales and use tax pursuant to the provisions of section 10, chapter 167, Laws of 1974 ex. sess., prior to July 1, 1975, shall be authorized to fix and impose a sales and use tax as provided in this section at not to exceed the rate so authorized without additional approval of the voters of such county as otherwise required by this section.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such city, public transportation benefit area, county, or metropolitan municipal corporation as the case may be. The rate of such tax shall be one-tenth, two-tenths, three-tenths, four-tenths, five-tenths, or six-tenths of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The rate of such tax shall not exceed the rate authorized by the voters unless such increase shall be similarly approved.

(2) (a) In the event a metropolitan municipal corporation shall impose a sales and use tax pursuant to this chapter no city, county which has created an unincorporated transportation benefit area, public transportation benefit area authority, or county transportation authority wholly within such metropolitan municipal corporation shall be empowered to levy and/or collect taxes pursuant to RCW 35.58.273, 35.95.040, and/or 82.14.045, but nothing herein shall prevent such city or county from imposing sales and use taxes pursuant to any other authorization.

(b) In the event a county transportation authority shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, public transportation benefit area, or metropolitan municipal corporation, located within the territory of the authority, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

(c) In the event a public transportation benefit area shall impose a sales and use tax pursuant to this section, no city, county which has created an unincorporated transportation benefit area, or metropolitan municipal corporation, located wholly or partly within the territory of the public transportation benefit area, shall be empowered to levy or collect taxes pursuant to RCW 35.58.273, 35.95.040, or 82.14.045.

(3) Any local sales and use tax revenue collected pursuant to this section by any city or by any county for transportation purposes pursuant to RCW 36.57.100 and 36.57.110 shall not be counted as locally generated tax revenues for the purposes of apportionment and distribution, in the manner prescribed by chapter 82.44 RCW, of the proceeds of the motor vehicle excise tax authorized pursuant to RCW 35.58.273. [1984 c 112 §

1; 1983 c 3 § 216; 1980 c 163 § 1; 1975 1st ex.s. c 270 § 6; 1971 ex.s. c 296 § 2.]

Reviser's note: This section was amended by 1983 c 3 § 216 and 1984 c 112 § 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—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Legislative finding, declaration—1971 ex.s. c 296: "The legislature finds that adequate public transportation systems are necessary to the economic, industrial and cultural development of the urban areas of this state and the health, welfare and prosperity of persons who reside or are employed in such areas or who engage in business therein and such systems are increasingly essential to the functioning of the urban highways of the state. The legislature further finds and declares that fares and tolls for the use of public transportation systems cannot maintain such systems in solvent financial conditions and at the same time meet the need to serve those who cannot reasonably afford or use other forms of transportation. The legislature further finds and declares that additional and alternate means of financing adequate public transportation service are necessary for the cities, metropolitan municipal corporations and counties of this state which provide such service." [1971 ex.s. c 296 § 1.]

Severability—1971 ex.s. c 296: "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 296 § 5.]

82.14.200 County sales and use tax equalization account—Created—Allocation procedure. There is created in the state general fund a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.150(2). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

The department of revenue shall establish a governmental price index as provided in this subsection. The base year for the index shall be the end of the third quarter of 1982. Prior to November 1, 1983, and prior to each November 1st thereafter, the department of revenue shall establish another index figure for the third quarter of that year. The department of revenue may use the implicit price deflators for state and local government purchases of goods and services calculated by the

United States department of commerce to establish the governmental price index. Beginning on January 1, 1984, and each January 1st thereafter, the one hundred fifty thousand dollar base figure in this subsection shall be adjusted in direct proportion to the percentage change in the governmental price index from 1982 until the year before the adjustment. Distributions made under this subsection for 1984 and thereafter shall use this adjusted base amount figure.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (6) and (7) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (2) of this section, a third distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (2) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the total distribution under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Subsequent to the distributions under subsection (4) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a fourth distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction

under subsections (6) and (7) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(6) Revenues distributed under this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsections (3) through (5) of this section cannot be made because of this limitation, then distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties.

(7) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsections (3) through (5) of this section, then the distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) through (5) of this section to the counties.

(8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) of this section, then the additional revenues shall be credited and transferred to the state general fund. [1984 c 225 § 5; 1983 c 99 § 1; 1982 1st ex.s. c 49 § 21.]

Rules—1984 c 225: See note following RCW 82.14.210.

Severability—1983 c 99: "If any provision of this act or chapter 49, Laws of 1982 1st ex. sess. or their application to any person or circumstance is held invalid, the remainder of these acts or the application of the provision to other persons or circumstances is not affected." [1983 c 99 § 10.]

Intent—**Construction**—**Effective date**—**Fire district funding**—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.14.210 Municipal sales and use tax equalization account—**Created**—**Allocation procedure**. There is created in the state general fund a special account to be known as the "municipal sales and use tax equalization account." Into this account shall be placed such revenues as are provided under RCW 82.44.150(3)(b). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for each city and the state-wide weighted average per capita level of revenues for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city not imposing the sales and use tax under RCW 82.14.030(2) an amount from the municipal sales and use tax equalization account equal to the amount distributed to the city under

RCW 82.44.150(3)(a) multiplied by thirty-five sixths.

(3) Subsequent to the distributions under subsection (2) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for all cities as determined by the department of revenue under subsection (1) of this section, an amount from the municipal sales and use tax equalization account sufficient, when added to the per capita level of revenues received the previous calendar year by the city, to equal seventy percent of the state-wide weighted average per capita level of revenues for all cities determined under subsection (1) of this section, subject to reduction under subsection (5) of this section.

(4) Subsequent to the distributions under subsection (3) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a third distribution from the municipal sales and use tax equalization account. The distribution to each qualifying city shall be equal to the distribution to the city under subsection (3) of this section, subject to the reduction under subsection (5) of this section. To qualify for the distributions under this subsection, the city must impose the tax under RCW 82.14.030(2) for the entire calendar year. Cities imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) If inadequate revenues exist in the municipal sales and use tax equalization account to make the distributions under subsection (3) or (4) of this section, then the distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying cities. At such time during the year as additional funds accrue to the municipal sales and use tax equalization account, additional distributions shall be made under subsections (3) and (4) of this section to the cities.

(6) If the level of revenues in the municipal sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (4) of this section, then the additional revenues shall be apportioned among the several cities within the state ratably on the basis of population as last determined by the office of financial management: *Provided*, That no such distribution shall be made to those cities receiving a distribution under subsection (2) of this section.

(7) For a city or town initially incorporated on or after January 1, 1983, at the time distributions are made under subsection (3) of this section, the state treasurer shall place into a separate designated account for such city or town a pro rata amount of the revenues received under RCW 82.44.150(3)(b) equal to the city's or

town's population multiplied by the amount of equalization funds to which the city or town would be entitled if its per capita yield the previous calendar year were zero. Such account shall take effect on January 1st of the first full calendar year during which the city or town imposes the taxes authorized by RCW 82.14.030(1) and shall cease to exist on December 31st of that year.

At the time that sales and use tax distributions are made pursuant to RCW 82.14.060, the revenues in such designated account shall be added to the city's or town's sales and use tax distributions so as to provide to such city or town an amount which reflects what such jurisdiction's entitlement from the municipal sales and use tax equalization account would have been if the actual distributions of sales and use tax revenues to such city or town had been received the previous full calendar year. Any excess revenues remaining in such designated account upon its expiration shall be apportioned according to subsection (6) of this section. If the department of revenue determines during the year that any funds in the designated account are not necessary for the purposes of distribution under this subsection, the department may deposit those funds in the municipal sales and use tax equalization account to be apportioned according to subsection (6) of this section. [1984 c 225 § 2; 1982 1st ex.s. c 49 § 22.]

Intent—1984 c 225: "It is the intent of the legislature to provide for the allocation of moneys by the department of revenue from the municipal sales and use tax equalization account to cities and towns initially incorporated on or after January 1, 1983." [1984 c 225 § 1.]

Applicability—1984 c 225: "Sections 1 and 2 of this act apply to distributions for calendar year 1984 and thereafter which are made to cities and towns that were initially incorporated on or after January 1, 1983, and that impose the tax authorized by RCW 82.14.030(1)." [1984 c 225 § 3.] "Sections 1 and 2 of this act" consist of the intent section footnoted above and the 1984 c 225 amendment to RCW 82.14.210.

Rules—1984 c 225: "The department of revenue shall adopt rules as necessary to implement this act." [1984 c 225 § 7.]

Intent—Construction—Effective date—Fire district funding—1982 1st ex.s. c 49: See notes following RCW 35.21.710.

82.14.220 Figures for apportionments and distributions under RCW 82.14.200 and 82.14.210. The apportionments and distributions by the state treasurer under RCW 82.14.200 and 82.14.210 shall be based on figures supplied by the department of revenue. [1984 c 225 § 4.]

Rules—1984 c 225: See note following RCW 82.14.210.

Chapter 82.14C

COUNTIES—TAX ON NONRESIDENTS EMPLOYED WITHIN COUNTY (Effective July 1, 1985)

Sections

- 82.14C.010 Findings.
- 82.14C.020 Excise tax authorized—Amount—Allocation to cities and towns.
- 82.14C.030 Administration and collection.
- 82.14C.900 Effective date—1984 c 248.

82.14C.010 Findings. The legislature finds that many people who are gainfully employed in Washington

state do not live in the state and therefore pay little or no taxes from which many vital services are funded. Recognizing the importance of maintaining roads and other services, it is the purpose of this chapter to supplement the revenues of counties. [1984 c 248 § 1.]

82.14C.020 Excise tax authorized—Amount—Allocation to cities and towns. The legislative authority of a county may impose an excise tax on persons residing outside the state who are employed inside the county for the privilege of using local governmental services in the county. The amount of the tax shall be based upon the actual benefits received by persons residing outside the state who are employed inside the county, including but not limited to police and fire protection and the construction and maintenance of streets. The county shall allocate to each city or town the amount of such taxes as are paid by nonresidents employed respectively in each such city or town. [1984 c 248 § 2.]

82.14C.030 Administration and collection. A county legislative authority imposing a tax under this chapter shall establish by ordinance all necessary and appropriate procedures for the administration and collection of the tax. The ordinance shall also provide that the due date for remittance of the tax collected shall be thirty days following the collection month. [1984 c 248 § 3.]

82.14C.900 Effective date—1984 c 248. This act shall take effect July 1, 1985. [1984 c 248 § 5.]

Chapter 82.32

GENERAL ADMINISTRATIVE PROVISIONS

Sections

- 82.32.010 Application of chapter stated.
- 82.32.045 Taxes—When due and payable—Election to remit estimated taxes—Reporting periods—Verified annual returns. (Effective until April 1, 1985.)
- 82.32.045 Taxes—When due and payable—Reporting periods—Verified annual returns. (Effective April 1, 1985.)
- 82.32.330 Secrecy enjoined—Exceptions.
- 82.32.400 Revenue accrual account created—Use.

82.32.010 Application of chapter stated. The provisions of this chapter shall apply with respect to the taxes imposed under chapters 82.04 through 82.29A RCW of this title, under chapter 84.33 RCW, and under other titles, chapters, and sections in such manner and to such extent as indicated in each such title, chapter, or section. [1984 c 204 § 26; 1983 c 3 § 219; 1981 c 148 § 12; 1961 c 15 § 82.32.010. Prior: 1935 c 180 § 185; RRS § 8370-185.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Purpose—Severability—Effective dates—1981 c 148: See notes following RCW 84.33.071.

82.32.045 Taxes—When due and payable—Election to remit estimated taxes—Reporting periods—Verified annual returns. (Effective until April 1,

1985.) (1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within the number of days specified in the following table after the end of the month in which the taxable activities occur.

For activities occurring in	Days
October, 1981 through March, 1982	25
April, 1982 through March, 1983	20
April, 1983 and thereafter	15

(2) A monthly taxpayer may elect to remit an estimated amount of the tax due for each month on or before the due date set forth in subsection (1) of this section. The estimated amount of tax remitted shall be at least the greater of ninety percent of the tax actually due for the month or one-third of the tax due during the corresponding quarter of the previous year. Each taxpayer filing an estimated return shall file a separate quarterly return on the last day of the month after the end of each calendar quarter. Each quarterly return shall be on forms prescribed by the department, include such information as the department may require to correctly determine tax liability during the quarter, and be accompanied by a remittance of the balance of the tax actually due for the quarter.

(3) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(4) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. [1982 1st ex.s. c 35 § 27; 1981 c 172 § 7; 1981 c 7 § 1.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Effective date—1981 c 7: "This act shall take effect October 1, 1981." [1981 c 172 § 9; 1981 c 7 § 5.]

82.32.045 Taxes—When due and payable—Reporting periods—Verified annual returns. (Effective April 1, 1985.) (1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of

the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. [1983 2nd ex.s. c 3 § 63; 1982 1st ex.s. c 35 § 27; 1981 c 172 § 7; 1981 c 7 § 1.]

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

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—1981 c 172: See note following RCW 82.04.240.

Effective date—1981 c 7: "This act shall take effect October 1, 1981." [1981 c 172 § 9; 1981 c 7 § 5.]

82.32.330 Secrecy enjoined—Exceptions. Except as hereinafter provided it shall be unlawful for the department of revenue or any member, deputy, clerk, agent, employee, or representative thereof or any other person to make known or reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records made in connection with the administration hereof. The foregoing, however, shall not be construed to prohibit the department of revenue or a member or employee thereof from: (1) Giving such facts or information in evidence in any court action involving tax imposed hereunder or involving a violation of the provisions hereof or involving another state department and the taxpayer; (2) giving such facts and information to the taxpayer or his duly authorized agent; (3) publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof; (4) giving such facts or information, for official purposes only, to the governor or attorney general, or to any state department, agency, board, commission, council, or any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions; (5) permitting its records to be audited and examined by the proper state officer, his agents and employees; (6) giving any such facts or information to the proper officer of the internal revenue service of the United States or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state; or (7) giving any such facts or information to the Department of Justice or the army or navy departments of the United States, or any authorized representative thereof, for official purposes.

Any person acquiring knowledge of such facts or information in the course of his employment with the department of revenue and any person acquiring knowledge of such facts and information as provided under (4), (5), (6) and (7) above, who reveals or makes known any such facts or information to another not entitled to knowledge of such facts or information under the provisions of this section, shall be punished by a fine of not exceeding one thousand dollars and, if the offender or person guilty of such violation is an officer or

employee of the state, he shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter. [1984 c 138 § 12; 1969 ex.s. c 104 § 1; 1963 ex.s. c 28 § 10; 1961 c 15 § 82.32.330. Prior: 1943 c 156 § 12; 1935 c 180 § 210; Rem. Supp. 1943 § 8370-210.]

82.32.400 Revenue accrual account created—Use. The revenue accrual account is hereby created in the state general fund. At the close of each fiscal biennium, the state treasurer shall transfer the balance in the state general fund, other than amounts reappropriated for the next fiscal biennium, to this account. Moneys in this account may only be spent after appropriation by statute for the purpose of decreasing the unfunded liability of a state retirement system or, during the 1983-1985 fiscal biennium, for the purpose of discharging obligations which the legislature determines are correctly chargeable to a prior biennium. [1984 c 285 § 607; 1983 2nd ex.s. c 3 § 57; 1983 c 7 § 33.]

Severability—1984 c 285: "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 285 § 612.]

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

Construction—Severability—Effective dates—1983 c 7: See notes following RCW 82.08.020.

Chapter 82.34

POLLUTION CONTROL FACILITIES—TAX EXEMPTIONS AND CREDITS

Sections

82.34.010	Definitions.
82.34.015	Limitations on the issuance of certificates under RCW 82.34.010(5) (b) and (c).

82.34.010 Definitions. Unless a different meaning is plainly required by the context, the following words as hereinafter used in this chapter shall have the following meanings:

(1) "Facility" shall mean an "air pollution control facility" or a "water pollution control facility" as herein defined: (a) "Air pollution control facility" includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part or accessories thereof, installed or acquired for the primary purpose of reducing, controlling or disposing of industrial waste which if released to the outdoor atmosphere could cause air pollution. "Air pollution control facility" shall not mean any motor vehicle air pollution control devices used to control the emission of air contaminants from any motor vehicle. (b) "Water pollution control facility" includes any treatment works, control device or disposal system, machinery, equipment, structures, property or any accessories thereof installed or acquired for the primary purpose of reducing, controlling or disposing of sewage and industrial waste which if released to a water course could cause water pollution: *Provided*, That the word "facility" shall not be

construed to include any control device, machinery, equipment, structure, disposal system or other property installed or constructed: For a municipal corporation other than for coal-fired, steam electric generating plants constructed and operated pursuant to chapter 54-.44 RCW for which an application for a certificate was made no later than December 31, 1969, together with any air or water pollution control facility improvement which may be made hereafter to such plants; or for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities: *Provided further*, That the word "facility" shall not include any control device, machinery, equipment, structure, disposal system, or other property installed or constructed with the proceeds derived from the sale of industrial revenue bonds issued under chapter 39.84 RCW.

(2) "Industrial waste" shall mean any liquid, gaseous, radioactive or solid waste substance or combinations thereof resulting from any process of industry, manufacture, trade or business, or from the development or recovery of any natural resources.

(3) "Treatment works" or "control device" shall mean any machinery, equipment, structure or property which is installed, constructed or acquired for the primary purpose of controlling air or water pollution and shall include, but shall not be limited to such devices as precipitators, scrubbers, towers, filters, baghouses, incinerators, evaporators, reservoirs, aerators used for the purpose of treating, stabilizing, incinerating, holding, removing or isolating sewage and industrial wastes.

(4) "Disposal system" shall mean any system containing treatment works or control devices and includes but is not limited to pipelines, outfalls, conduits, pumping stations, force mains, solids handling equipment, instrumentation and monitoring equipment, ducts, fans, vents, hoods and conveyors and all other construction, devices, appurtenances and facilities used for collecting or conducting, sewage and industrial waste to a point of disposal, treatment or isolation except that which is necessary to manufacture of products.

(5) "Certificate" shall mean a pollution control tax exemption and credit certificate for which application has been made not later than December 31, 1969, except as follows:

(a) With respect to a facility required to be installed, such application will be deemed timely made if made not later than November 30, 1981, and within one year after the effective date of specific requirements for such facility promulgated by the appropriate control agency.

(b) With respect to a water pollution control facility for which an application was made in anticipation of specific requirements for such facility being promulgated by the appropriate control agency, an application will be deemed timely made if made during November, 1981, and subsequently denied, and if an appeal of the agency's denial of the application was filed in a timely manner.

(c) With respect to a facility for which plans and specifications were approved by the appropriate control agency, an application will be deemed timely made if

made during November, 1981, and subsequently denied, and if an appeal of the agency's denial of the application was filed in a timely manner.

(d) For the purposes of (a), (b), and (c) of this subsection, "facility" means a facility installed in an industrial, manufacturing, waste disposal, utility, or other commercial establishment which is in operation or under construction as of July 30, 1967.

(6) "Appropriate control agency" shall mean the state water pollution control commission; or the operating local or regional air pollution control agency within whose jurisdiction a facility is or will be located, or the state air pollution control board, where the facility is not or will not be located within the area of an operating local or regional air pollution control agency, or where the state air pollution control board has assumed jurisdiction.

(7) "Department" shall mean the department of revenue. [1984 c 42 § 1; 1981 2nd ex.s. c 9 § 1; 1980 c 175 § 1; 1967 ex.s. c 139 § 1.]

82.34.015 Limitations on the issuance of certificates under RCW 82.34.010(5) (b) and (c). The department shall not issue a certificate under RCW 82.34.010(5)(b) before July 1, 1985, or before the promulgation of specific requirements for such facility by the appropriate control agency, whichever is later. The department shall not issue a certificate under RCW 82.34.010(5)(c) before July 1, 1985. [1984 c 42 § 2.]

Chapter 82.45

EXCISE TAX ON REAL ESTATE SALES

Sections

- 82.45.032 "Real estate," "real property," "used mobile home," "mobile home," "used floating home," and "floating home" defined.
- 82.45.090 Payment of tax—Evidence of payment—Recording.

82.45.032 "Real estate," "real property," "used mobile home," "mobile home," "used floating home," and "floating home" defined. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Real estate" or "real property" means real property but includes used mobile homes and used floating homes.

(2) "Used mobile home" means a mobile home which has been previously sold at retail and the immediately preceding sale has already been subjected to tax under chapter 82.08 RCW, or which has been previously used and the immediately preceding use has already been subjected to tax under chapter 82.12 RCW, and which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

(3) "Mobile home" means a mobile home as defined by RCW 46.04.302, as now or hereafter amended.

(4) "Used floating home" means a floating home in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

(5) "Floating home" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located. [1984 c 192 § 1; 1979 ex.s. c 266 § 1. Formerly RCW 28A.45.032.]

82.45.090 Payment of tax—Evidence of payment—Recording. The tax imposed by this chapter shall be paid to and collected by the treasurer of the county within which is located the real property which was sold, said treasurer acting as agent for the state. The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales and used floating home sales. A receipt issued by the county treasurer for the payment of the tax imposed under this chapter shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be so accepted until suitable notation of such fact has been made on the instrument by the treasurer. [1984 c 192 § 2; 1980 c 154 § 4; 1979 ex.s. c 266 § 2; 1969 ex.s. c 223 § 28A.45.090. Prior: 1951 2nd ex.s. c 19 § 4; 1951 1st ex.s. c 11 § 11. Formerly RCW 28A.45.090, 28.45.090.]

Purpose—Effective dates—Savings—Disposition of certain funds—Severability—1980 c 154: See notes following chapter digest.

Applicability of general administrative provisions—Departmental rules, scope—Departmental audit: RCW 82.45.150.

Chapter 82.49

WATERCRAFT EXCISE TAX

Sections

- 82.49.020 Exemptions.
- 82.49.070 Local excise tax authorized.

82.49.020 Exemptions. The following are exempt from the tax imposed under this chapter:

(1) Vessels exempt from the registration requirements of chapter 88.02 RCW;

(2) Vessels used exclusively for commercial fishing purposes;

(3) Vessels under sixteen feet in overall length;

(4) Vessels owned and operated by the United States, a state of the United States, or any municipality or political subdivision thereof;

(5) Vessels owned by a nonprofit organization or association engaged in character building of boys and girls

under eighteen years of age and solely used for such purposes, as determined by the department for the purposes of RCW 84.36.030; and

(6) Vessels owned and held for sale by a dealer, but not rented on a regular commercial basis. [1984 c 250 § 1; 1983 2nd ex.s. c 3 § 43.]

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

Partial exemption from ad valorem taxes of ships and vessels exempt from excise tax under RCW 82.49.020(2): RCW 84.36.080.

82.49.070 Local excise tax authorized. (1) Any county may impose a tax, by ordinance or resolution, upon the privilege of using a vessel taxable under RCW 82.49.010 which is moored or stored in the county, if the population of the unincorporated area of the county together with the population of the cities which are parties to an interlocal agreement under chapter 39.34 RCW equal or exceed two-thirds of the total population of the county: *Provided*, That such agreement shall take into consideration any marine patrols provided as of June 30, 1983, and may provide compensation for those municipal corporations in the county which are parties to the agreement and which provide boating safety services, including fire suppression and rescue services only as related to boating safety. The annual amount of the tax shall be up to fifty cents per foot of the vessel per calendar year, or part thereof.

(2) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050. A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year.

(4) The moneys collected under this section shall be distributed by the county monthly to the parties to the interlocal agreement, and other municipal corporations entitled to compensation, according to the terms of the agreement. Moneys collected under this section shall be used only for administration and enforcement of boating safety, search and rescue operations concerning boating, and boating patrols. [1984 c 250 § 4; 1983 2nd ex.s. c 3 § 49.]

Reviser's note: Subsection (3) of this section [1983 2nd ex.s. c 3 § 49] was vetoed by the governor.

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

**Title 84
PROPERTY TAXES**

Chapters

84.08 General powers and duties of department of revenue.

- 84.09 General provisions.**
- 84.12 Assessment and taxation of public utilities.**
- 84.16 Assessment and taxation of private car companies.**
- 84.28 Reforestation lands.**
- 84.33 Timber and forest lands.**
- 84.34 Open space, agricultural, and timber lands—
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- 84.36 Exemptions.**
- 84.38 Deferral of special assessments and/or property taxes.**
- 84.40 Listing of property.**
- 84.48 Equalization of assessments.**
- 84.52 Levy of taxes.**
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- 84.64 Certificates of delinquency.**

Chapter 84.08

GENERAL POWERS AND DUTIES OF DEPARTMENT OF REVENUE

Sections

84.08.200 Listing of taxable ships and vessels with department—Assessment—Certification of values to assessors—Review.

84.08.200 Listing of taxable ships and vessels with department—Assessment—Certification of values to assessors—Review. Every individual, corporation, association, partnership, trust, and estate shall list with the department of revenue all ships and vessels which are subject to their ownership, possession, or control and which are subject to ad valorem taxation under RCW 84.36.080, and such listing shall be subject to the same requirements, penalties, and liens provided in chapters 84.40 and 84.60 RCW for all other personal property in the same manner as provided therein.

The department shall assess all ships and vessels and shall certify to the respective county assessors the equalized values thereof, subject to the same rules as other state-assessed properties in accordance with RCW 84.12.370 and 84.16.130 and chapter 84.48 RCW.

Any ship or vessel owner disputing the assessment under this section shall have the same rights of review as any other vessel owner subject to the excise tax contained in chapter 82.49 RCW in accordance with RCW 82.49.060. [1984 c 250 § 5.]

Chapter 84.09

GENERAL PROVISIONS

Sections

84.09.030 Taxing district boundary changes—Time limitation—Filing.

84.09.030 Taxing district boundary changes—Time limitation—Filing. For the purposes of property taxation and the levy of property taxes the boundaries of counties, cities and all other taxing districts shall be the

established official boundaries of such districts existing on the first day of March of the year in which the levy is made, and no such levy shall be made for any taxing district whose boundaries were not duly established on the first day of March of such year: *Provided*, That for the year 1981 only the boundaries of library districts shall be the established official boundaries existing on the first day of October: *Provided further*, That for the year 1984 only, boundaries of public hospital districts shall be the established official boundaries existing on the first day of April. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries, is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor. [1984 c 203 § 9; 1981 c 26 § 4; 1961 c 15 § 84.09.030. Prior: 1951 c 116 § 1; 1949 c 65 § 1; 1943 c 182 § 1; 1939 c 136 § 1; Rem. Supp. 1949 § 11106-1. Formerly RCW 84.08.160.]

Severability—1984 c 203: See note following RCW 35.43.140.

Chapter 84.12

ASSESSMENT AND TAXATION OF PUBLIC UTILITIES

Sections

84.12.230	Annual reports to be filed.
84.12.260	Default valuation by department of revenue—Penalty—Estoppel.

84.12.230 Annual reports to be filed. Each company doing business in this state shall annually on or before the 15th day of March, make and file with the department of revenue an annual report, in such manner, upon such form, and giving such information as the department may direct: *Provided*, That the department, upon written request filed on or before such date and for good cause shown therein, may allow an extension of time for filing not to exceed sixty days. At the time of making such report each company shall also be required to furnish to the department the annual reports of the board of directors, or other officers to the stockholders of the company, duplicate copies of the annual reports made to the interstate commerce commission and to the utilities and transportation commission of this state and duplicate copies of such other reports as the department may direct: *Provided*, That the duplicate copies of these annual reports shall not be due until such time as they are due to the stockholders or commissioners. [1984 c 132 § 1; 1975 1st ex.s. c 278 § 161; 1961 c 15 § 84.12.230. Prior: 1935 c 123 § 3; 1925 ex.s. c 130 § 39; 1907 c 131 § 5; 1907 c 78 § 5; 1897 c 71 § 40; 1893 c 124 § 40; 1891 c 140 § 27; 1890 p 541 § 27; RRS § 11156-3. Formerly RCW 84.12.030.]

Construction—**Severability**—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

[1984 RCW Supp—page 728]

84.12.260 Default valuation by department of revenue—Penalty—Estoppel. (1) If any company shall fail to materially comply with the provisions of RCW 84.12.230, the department shall add to the value of such company, as a penalty for such failure, five percent for every thirty days or fraction thereof, not to exceed ten percent, that the company fails to comply.

(2) If any company, or any of its officers or agents shall refuse or neglect to make any report required by this chapter, or by the department of revenue, or shall refuse to permit an inspection and examination of its records, books, accounts, papers or property requested by the department of revenue, or shall refuse or neglect to appear before the department of revenue in obedience to a subpoena, the department of revenue shall inform itself to the best of its ability of the matters required to be known, in order to discharge its duties with respect to valuation and assessment of the property of such company, and the department shall add to the value so ascertained twenty-five percent as a penalty for such failure or refusal and such company shall be estopped to question or impeach the assessment of the department in any hearing or proceeding thereafter. Such penalty shall be in lieu of the penalty provided for in subsection (1) of this section. [1984 c 132 § 2; 1975 1st ex.s. c 278 § 164; 1961 c 15 § 84.12.260. Prior: 1935 c 123 § 6; 1925 ex.s. c 130 § 41; 1907 c 131 § 7; 1907 c 78 § 6; 1891 c 140 § 37; 1890 p 544 § 36; RRS § 11156-6. Formerly RCW 84.12.100.]

Construction—**Severability**—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.16

ASSESSMENT AND TAXATION OF PRIVATE CAR COMPANIES

Sections

84.16.036	Default valuation by department of revenue—Penalty—Estoppel.
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84.16.036 Default valuation by department of revenue—Penalty—Estoppel. (1) If any company shall fail to comply with the provisions of RCW 84.16.020, the department shall add to the value of such company, as a penalty for such failure, five percent for every thirty days or fraction thereof, not to exceed ten percent, that the company fails to comply.

(2) If any company, or its officer or agent, shall refuse or neglect to make any report required by this chapter, or by the department of revenue, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts, papers or property requested by the department of revenue, or shall refuse or neglect to appear before the department in obedience to a summons, the department shall inform itself the best it may of the matters to be known, in order to discharge its duties with respect to valuation and assessment of the property of such company; and the department shall add to the value so ascertained twenty-five percent as a penalty for the failure or refusal of such company to make

its report and such company shall be estopped to question or impeach the assessment of the department of revenue in any hearing or proceeding thereafter. Such penalty shall be in lieu of the penalty provided for in subsection (1) of this section. [1984 c 132 § 3; 1975 1st ex.s. c 278 § 178; 1961 c 15 § 84.16.036. Prior: 1933 c 146 § 6; RRS § 11172-6; prior: 1907 c 36 §§ 5, 6. Formerly RCW 84.16.080.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 84.28 REFORESTATION LANDS

Sections

- 84.28.200 Termination of classification under chapter 84.28
RCW—Reclassification under chapter 84.33 RCW.
84.28.205 "Reclassified reforestation land" defined.
84.28.210 Notice of reclassification—Application for declassification—Payment for declassification—Assessment upon declassification.
84.28.215 Listing of reclassified reforestation lands—Manner and effect.

84.28.200 Termination of classification under chapter 84.28 RCW—Reclassification under chapter 84.33 RCW. The classification of land as reforestation land under this chapter is terminated, effective July 1, 1984. Effective July 1, 1984, this land shall be classified forest land under chapter 84.33 RCW and this land and the timber standing thereon shall be subject to all provisions of chapter 84.33 RCW. [1984 c 204 § 28.]

Findings—Purpose—1984 c 204 §§ 28-43: "The legislature finds that two separate systems are used in the taxation of forest land and the timber and forest crops grown thereon. Less than eight percent of private forest land is taxed under the system enacted in 1931; over ninety-two percent is taxed under the 1971 law. The policies established under RCW 84.28.005 in 1931 and RCW 84.33.010 in 1971 will be carried out more efficiently and equitably under a single uniform taxing system. It is the purpose of sections 28 through 43 of this act to phase out the system enacted in 1931 for taxation of forest land and forest crops and to integrate the taxation of that land and forest crops into the tax system enacted in 1971." [1984 c 204 § 27.]

Application—1984 c 204 §§ 28-43: "Nothing in sections 28 through 43 of this act excuses or discharges any person from the yield tax imposed by RCW 84.28.110 with respect to timber harvested from reforestation lands prior to July 1, 1984." [1984 c 204 § 45.] "Sections 28 through 43 of this act" consist of the enactment of RCW 84.28.200 through 84.28.215, 84.33.055, 84.33.056, 84.33.057, 84.33.058, 84.33.059, 84.33.061, 84.33.062, 84.33.063, 84.33.064, 84.33.065, 84.33.066, and 84.33.067.

84.28.205 "Reclassified reforestation land" defined. As used in this chapter, "reclassified reforestation land" means land for which the classification has terminated under RCW 84.28.200. [1984 c 204 § 29.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28-43: See notes following RCW 84.28.200.

84.28.210 Notice of reclassification—Application for declassification—Payment for declassification—Assessment upon declassification. The county assessor of a county in which there are reclassified reforestation

lands shall notify each owner of record of reclassified reforestation land of the reclassification prior to August 1, 1984. If the owner desires to remove any such land from classification as reclassified reforestation land, the owner shall file an application for removal from classification of the land by legal description prior to October 1, 1984. The application for declassification shall be accompanied by a payment equal to six percent of the stumpage value of any commercial timber standing on the land as of July 1, 1984. The assessor shall accept the request for removal from classification but may ask for an appraisal of the standing timber certified by an experienced timber cruiser before final acceptance of the payment due. Upon final approval and payment of the proper amount, the assessor shall assess the land at its value for highest and best use as of January 1, 1985. [1984 c 204 § 30.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28-43: See notes following RCW 84.28.200.

84.28.215 Listing of reclassified reforestation lands—Manner and effect. In preparing the assessment rolls as of January 1, 1985, for taxes payable in 1986, the assessor shall list, prior to May 31, 1985, each parcel of reclassified reforestation land at the values set in accordance with RCW 84.33.120. For the purpose of calculating the limitation on tax levies under chapter 84.55 RCW, the increase in assessed valuation of reclassified reforestation land entered on the tax rolls as of January 1, 1985, shall be treated the same as increases resulting from new construction. Reclassified reforestation land shall be considered to have been designated or classified forest land for a period in excess of ten years for purposes of calculating any compensating tax which may become payable under RCW 84.33.140. [1984 c 204 § 31.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28-43: See notes following RCW 84.28.200.

Chapter 84.33 TIMBER AND FOREST LANDS

Sections

- 84.33.010 Legislative findings.
84.33.020 Classification of timberlands.
84.33.030 Repealed.
84.33.035 Definitions.
84.33.040 Timber on privately or federally owned land exempted from ad valorem taxation.
84.33.041 State excise tax on harvesters of timber imposed—
Credit for county tax—Deposit of moneys in timber tax distribution account.
84.33.042 Excise tax rate July 1, 1984, through June 30, 1985.
84.33.043 Excise tax rate July 1, 1985, through June 30, 1986.
84.33.044 Excise tax rate July 1, 1986, through June 30, 1987.
84.33.045 Excise tax rate July 1, 1987, through June 30, 1988.
84.33.046 Excise tax rate July 1, 1988, and thereafter.
84.33.050 Repealed.
84.33.051 County excise tax on harvesters of timber authorized—Rate—Administration and collection—

	Deposit of moneys in timber tax distribution account—Use.
84.33.055	Reclassified reforestation lands—Excise tax rate—Payment and distribution.
84.33.056	Reclassified reforestation lands—Excise tax rate reduction July 1, 1984, through December 31, 1984.
84.33.057	Reclassified reforestation lands—Excise tax rate reduction for 1985.
84.33.058	Reclassified reforestation lands—Excise tax rate reduction for 1986.
84.33.059	Reclassified reforestation lands—Excise tax rate reduction for 1987.
84.33.060	Repealed.
84.33.061	Reclassified reforestation lands—Excise tax rate reduction for 1988.
84.33.062	Reclassified reforestation lands—Excise tax rate reduction for 1989.
84.33.063	Reclassified reforestation lands—Excise tax rate reduction for 1990.
84.33.064	Reclassified reforestation lands—Excise tax rate reduction for 1991.
84.33.065	Reclassified reforestation lands—Excise tax rate reduction for 1992.
84.33.066	Reclassified reforestation lands—Excise tax rate reduction for 1993.
84.33.067	Reclassified reforestation lands—Excise tax rate reduction for 1994 and thereafter.
84.33.071	Repealed.
84.33.072	Repealed.
84.33.074	Excise tax on harvesters of timber—Calculation of tax by small harvesters—Election—Filing form.
84.33.075	Excise tax on harvesters of timber—Exemption for certain nonprofit organizations, associations, or corporations.
84.33.077	Credit for property taxes paid on timber on public land.
84.33.078	Sale of timber on nonfederally owned public land—Notice of tax treatment to bidders.
84.33.080	Repealed.
84.33.081	Distributions from timber tax distribution account—Distributions from county timber tax account.
84.33.085	Repealed.
84.33.086	Payment of tax.
84.33.090	Repealed.
84.33.091	Tables of stumpage values—Revised tables—Legislative review—Appeal.
84.33.093	State timber tax account A, state timber tax reserve account, timber tax distribution guarantee account—Distributions—Expiration of section.
84.33.096	Application of excise taxes' administrative provisions and definitions.
84.33.120	Forest land valuation—Assessor to list forest land at grade and class values—Computation of assessed value—Adjustment of values—Certification—Use—Notice of continuance—Appeals—Removal of classification—Compensating tax.
84.33.170	Application of chapter to Christmas trees.
84.33.200	Legislative review of timber tax system—Joint timber tax advisory committee—Information and data to be furnished.

84.33.010 Legislative findings. As a result of the study and analysis of systems of taxation of standing timber and forest lands by the forest tax committee pursuant to Senate Concurrent Resolution No. 30 of the 41st session of the legislature, and the recommendations of the committee based thereon, the legislature hereby finds that:

(1) The public welfare requires that this state's system for taxation of timber and forest lands be modernized to assure the citizens of this state and its future generations the advantages to be derived from the continuous production of timber and forest products from the significant area of privately owned forests in this state. It is

this state's policy to encourage forestry and restocking and reforestation of such forests so that present and future generations will enjoy the benefits which forest areas provide in enhancing water supply, in minimizing soil erosion, storm and flood damage to persons or property, in providing a habitat for wild game, in providing scenic and recreational spaces, in maintaining land areas whose forests contribute to the natural ecological equilibrium, and in providing employment and profits to its citizens and raw materials for products needed by everyone.

(2) The combination of variations in quantities, qualities and locations of timber and forest lands, the fact that market areas for timber products are nation-wide and world-wide and the unique long term nature of investment costs and risks associated with growing timber, all make exceedingly difficult the function of valuing and assessing timber and forest lands.

(3) The existing ad valorem property tax system is unsatisfactory for taxation of standing timber and forest land and will significantly frustrate, to an ever increasing degree with the passage of time, the perpetual enjoyment of the benefits enumerated above.

(4) For these reasons it is desirable, in exercise of the powers to promote the general welfare and to impose taxes; that

(a) the ad valorem system for taxing timber be modified and discontinued in stages over a three year period during which such system will be replaced by one under which timber will be taxed on the basis of stumpage value at the time of harvest, and

(b) forest land remain under the ad valorem taxation system but be taxed only as provided in this chapter and RCW 28A.41.130. [1984 c 204 § 16; 1971 ex.s. c 294 § 1.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.020 Classification of timberlands. Lands not heretofore so classified, which are primarily devoted to and used for growing and harvesting timber are hereby classified as lands devoted to reforestation and such lands and timber shall be taxed in accordance with the provisions of this chapter and RCW 28A.41.130. [1984 c 204 § 17; 1971 ex.s. c 294 § 2.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

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

(1) "Composite property tax rate" for a county means the total amount of property taxes levied upon forest lands by all taxing districts in the county other than the state, divided by the total assessed value of all forest land in the county.

(2) "Forest land" means forest land which is classified or designated forest land under this chapter.

(3) "Harvested" means the time when in the ordinary course of business the quantity of timber by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(4) "Harvester" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(5) "Stumpage value of timber" means the appropriate stumpage value shown on tables prepared by the department of revenue under RCW 84.33.091, provided that for timber harvested from public land and sold under a competitive bidding process, stumpage value shall mean that actual amount paid to the seller in cash or other consideration. Whenever payment for the stumpage includes considerations other than cash, the value shall be the fair market value of the other consideration, provided that if the other consideration is permanent roads, the value of the roads shall be the appraised value as appraised by the seller.

(6) "Timber" means forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170 includes Christmas trees.

(7) "Timber assessed value" for a county means a value, calculated by the department of revenue before October 1 of each year, equal to the total stumpage value of timber harvested from privately owned land in the county during the most recent four calendar quarters for which the information is available multiplied by a ratio. The numerator of the ratio is the rate of tax imposed by the county under RCW 84.33.051 for the year of the calculation. The denominator of the ratio is the composite property tax rate for the county for taxes due in the year of the calculation, expressed as a percentage of assessed value.

(8) "Timber assessed value" for a taxing district means the timber assessed value for the county multiplied by a ratio. The numerator of the ratio is the total assessed value of forest land in the taxing district. The denominator is the total assessed value of forest land in the county. As used in this section, "assessed value of forest land" means the assessed value of forest land for taxes due in the year the timber assessed value for the county is calculated. [1984 c 204 § 1.]

Savings—1984 c 204: "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." [1984 c 204 § 48.]

Effective date—1984 c 204: "This act shall take effect July 1, 1984." [1984 c 204 § 49.]

84.33.040 Timber on privately or federally owned land exempted from ad valorem taxation. Timber on privately owned land or federally owned land shall be exempt from ad valorem taxation. [1984 c 204 § 18; 1983 1st ex.s. c 62 § 7; 1971 ex.s. c 294 § 4.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Short title—Intent—Effective dates—Applicability—1983 1st ex.s. c 62: See notes following RCW 84.36.473.

84.33.041 State excise tax on harvesters of timber imposed—Credit for county tax—Deposit of moneys in timber tax distribution account. (1) An excise tax is imposed on every person engaging in this state in business as a harvester of timber on privately or publicly owned land. The tax is equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by the rate provided in this chapter.

(2) A credit is allowed against the tax imposed under this section for any tax paid under RCW 84.33.051.

(3) Moneys received as payment for the tax imposed under this section and RCW 84.33.051 shall be deposited in the timber tax distribution account hereby established in the state general fund. [1984 c 204 § 2.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.042 Excise tax rate July 1, 1984, through June 30, 1985. The rate of tax imposed under RCW 84.33.041 for timber harvested July 1, 1984, through June 30, 1985, shall be six and one-half percent. [1984 c 204 § 3.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.043 Excise tax rate July 1, 1985, through June 30, 1986. The rate of tax imposed under RCW 84.33.041 for timber harvested July 1, 1985, through June 30, 1986, shall be six and one-eighth percent. [1984 c 204 § 4.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.044 Excise tax rate July 1, 1986, through June 30, 1987. The rate of tax imposed under RCW 84.33.041 for timber harvested July 1, 1986, through June 30, 1987, shall be five and three-fourths percent. [1984 c 204 § 5.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.045 Excise tax rate July 1, 1987, through June 30, 1988. The rate of tax imposed under RCW 84.33.041 for timber harvested July 1, 1987, through June 30, 1988, shall be five and three-eighths percent. [1984 c 204 § 6.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.046 Excise tax rate July 1, 1988, and thereafter. The rate of tax imposed under RCW 84.33.041 for

timber harvested July 1, 1988, and thereafter, shall be five percent. [1984 c 204 § 7.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.051 County excise tax on harvesters of timber authorized—Rate—Administration and collection—Deposit of moneys in timber tax distribution account—Use. (1) The legislative body of any county may impose a tax upon every person engaging in the county in business as a harvester effective October 1, 1984. The tax shall be equal to the stumpage value of timber harvested from privately owned land multiplied by a rate of four percent.

(2) Before the effective date of any ordinance imposing a tax under this section, the county shall contract with the department of revenue for administration and collection of the tax. The tax collected by the department of revenue under this section shall be deposited by the department in the timber tax distribution account. Moneys in the account may be spent only for distributions to counties under RCW 84.33.081 and, after appropriation by the legislature, for the activities undertaken by the department of revenue relating to the collection and administration of the taxes imposed under this section and RCW 84.33.041. Appropriations are not required for distributions to counties under RCW 84.33.081. [1984 c 204 § 8.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.055 Reclassified reforestation lands—Excise tax rate—Payment and distribution. There shall be paid by each owner of reclassified reforestation lands, as defined in RCW 84.28.205, in lieu of the excise tax rate imposed under RCW 84.33.041, a rate equal to twelve and one-half percent, minus the amounts specified in this chapter. Such tax shall be paid and distributed as follows:

(1) The amount of taxes payable equal to the amount of taxes which would be payable if the rate under this section equaled the rate imposed under RCW 84.33.041 shall be paid and distributed as provided in this chapter.

(2) The amount of taxes payable in excess of the amount of taxes which would be payable if the rate under this section equaled the rate imposed under RCW 84.33.041 shall be paid by the harvester to the department of revenue. The department of revenue shall distribute these receipts, less amounts appropriated for administration, on or before March 15 of the year following the harvest to the county treasurer of the county in which the timber was harvested. The county treasurer shall distribute these receipts to local taxing districts in the county in which the timber was harvested in the same manner as the distributions of tax receipts under chapter 84.28 RCW.

For timber harvested from reclassified reforestation lands, as defined in RCW 84.28.205, for the period July

1, 1984, through December 31, 1984, the tax shall be paid prior to January 31, 1985, and such tax revenue shall be distributed to the state and local taxing districts in the same manner as if the timber were harvested after October 1, 1984. [1984 c 204 § 32.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.056 Reclassified reforestation lands—Excise tax rate reduction July 1, 1984, through December 31, 1984. For timber harvested July 1, 1984, through December 31, 1984, the rate provided in RCW 84.33.055 shall be reduced by one percent. [1984 c 204 § 33.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.057 Reclassified reforestation lands—Excise tax rate reduction for 1985. For timber harvested in 1985, the rate provided in RCW 84.33.055 shall be reduced by two percent. [1984 c 204 § 34.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.058 Reclassified reforestation lands—Excise tax rate reduction for 1986. For timber harvested in 1986, the rate provided in RCW 84.33.055 shall be reduced by three percent. [1984 c 204 § 35.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.059 Reclassified reforestation lands—Excise tax rate reduction for 1987. For timber harvested in 1987, the rate provided in RCW 84.33.055 shall be reduced by three and one-half percent. [1984 c 204 § 36.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.060 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.061 Reclassified reforestation lands—Excise tax rate reduction for 1988. For timber harvested in 1988, the rate provided in RCW 84.33.055 shall be reduced by four percent. [1984 c 204 § 37.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.062 Reclassified reforestation lands—Excise tax rate reduction for 1989. For timber harvested in

1989, the rate provided in RCW 84.33.055 shall be reduced by four and one-half percent. [1984 c 204 § 38.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.063 Reclassified reforestation lands—Excise tax rate reduction for 1990. For timber harvested in 1990, the rate provided in RCW 84.33.055 shall be reduced by five percent. [1984 c 204 § 39.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.064 Reclassified reforestation lands—Excise tax rate reduction for 1991. For timber harvested in 1991, the rate provided in RCW 84.33.055 shall be reduced by five and one-half percent. [1984 c 204 § 40.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.065 Reclassified reforestation lands—Excise tax rate reduction for 1992. For timber harvested in 1992, the rate provided in RCW 84.33.055 shall be reduced by six percent. [1984 c 204 § 41.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.066 Reclassified reforestation lands—Excise tax rate reduction for 1993. For timber harvested in 1993, the rate provided in RCW 84.33.055 shall be reduced by six and one-half percent. [1984 c 204 § 42.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.067 Reclassified reforestation lands—Excise tax rate reduction for 1994 and thereafter. For timber harvested in 1994, and thereafter, the rate provided in RCW 84.33.055 shall be reduced by seven and one-half percent. [1984 c 204 § 43.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Findings—Purpose—Application—1984 c 204 §§ 28–43: See notes following RCW 84.28.200.

84.33.071 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.072 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.074 Excise tax on harvesters of timber—Calculation of tax by small harvesters—Election—Filing form. (1) A small harvester may elect to calculate

the tax imposed by this chapter in the manner provided in this section.

(2) Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined. The amount harvested shall be determined by the Scribner Decimal C Scale or other prevalent measuring practice adjusted to arrive at substantially equivalent measurements, as approved by the department of revenue.

(3) Timber values shall be determined by either of the following methods, whichever is most appropriate to the circumstances of the harvest:

(a) When standing timber is sold on the stump, the taxable value is the actual gross receipts received by the landowner from the sale of the standing timber.

(b) When timber is sold after it has been harvested, the taxable value is the actual gross receipts from sale of the harvested timber minus the costs of harvesting and marketing the timber. When the taxpayer is unable to provide documented proof of harvesting and marketing costs, this deduction for harvesting and marketing costs shall be a percentage of the gross receipts from sale of the harvested timber as determined by the department of revenue but in no case less than twenty-five percent.

(4) The department of revenue shall prescribe a short filing form which shall be as simple as possible. [1984 c 204 § 19; 1981 c 146 § 2.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Effective date—Severability—1981 c 146: See notes following RCW 84.33.073.

84.33.075 Excise tax on harvesters of timber—Exemption for certain nonprofit organizations, associations, or corporations. The excise tax imposed by this chapter shall not apply to any timber harvested by a nonprofit organization, association, or corporation from forest lands owned by it, where such lands are exempt from property taxes under RCW 84.36.030, and where all of the income and receipts of the nonprofit organization, association, or corporation derived from such timber sales are used solely for the expense of promoting, operating, and maintaining youth programs which are equally available to all, regardless of race, color, national origin, ancestry, or religious belief.

In order to determine whether the harvesting of timber by a nonprofit organization, association, or corporation is exempt, the director of the department of revenue shall have access to its books.

For the purposes of this section, a "nonprofit" organization, association, or corporation is one: (1) Which pays no part of its income directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and bylaws; and (2) which pays salary or compensation to its officers only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the public services of the state. [1984 c 204 § 20; 1980 c 134 § 6.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.077 Credit for property taxes paid on timber on public land. The amount of any property taxes paid on timber standing on public land shall be allowed as a credit against any tax imposed with respect to the business of harvesting timber from publicly owned land under RCW 84.33.041. However, the amount of credit allowed shall not exceed the amount of excise tax due in respect to the business of harvesting timber from publicly owned land. [1984 c 204 § 21; 1983 1st ex.s. c 62 § 8.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Short title—Intent—Effective dates—Applicability—1983 1st ex.s. c 62: See notes following RCW 84.36.473.

84.33.078 Sale of timber on nonfederally owned public land—Notice of tax treatment to bidders. When any timber standing on public land, other than federally owned land, is sold separate from the land, the department of natural resources or other governmental unit, as appropriate, shall provide each bidder with a written notice clearly stating that timber sold separate from the land is subject to property tax in 1984 and thereafter and that the amount of the tax paid may be used as a credit against any tax imposed with respect to business of harvesting timber from publicly owned land under RCW 84.33.041. [1984 c 204 § 22; 1983 1st ex.s. c 62 § 9.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Short title—Intent—Effective dates—Applicability—1983 1st ex.s. c 62: See notes following RCW 84.36.473.

84.33.080 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.081 Distributions from timber tax distribution account—Distributions from county timber tax account. (1) On the last business day of the second month of each calendar quarter, the state treasurer shall distribute from the timber tax distribution account to each county the amount of tax collected on behalf of each county under RCW 84.33.051, less each county's proportionate share of appropriations for collection and administration activities under RCW 84.33.051, and shall transfer to the state general fund the amount of tax collected on behalf of the state under RCW 84.33.041, less the state's proportionate share of appropriations for collection and administration activities under RCW 84.33.041. The county treasurer shall deposit moneys received under this section in a county timber tax account which shall be established by each county. Following receipt of moneys under this section, the county treasurer shall make distributions from any moneys available in the county timber tax account to taxing districts in the county, except the state, under subsections (2) through (4) of this section.

(2) From moneys available, there first shall be a distribution to each taxing district having debt service payments due during the calendar year, based upon bonds issued under authority of a vote of the people conducted pursuant to RCW 84.52.056 and based upon excess levies for a capital project fund authorized pursuant to RCW 84.52.053, of an amount equal to the timber assessed value of the district multiplied by the tax rate levied for payment of the debt service and capital projects: *Provided*, That in respect to levies for a debt service or capital project fund authorized before July 1, 1984, the amount allocated shall not be less than an amount equal to the same percentage of such debt service or capital project fund represented by timber tax allocations to such payments in calendar year 1984. Distribution under this subsection (2) shall be used only for debt service and capital projects payments.

(3) From the moneys remaining after the distributions under subsection (2) of this section, the county treasurer shall distribute to each school district an amount equal to one-half of the timber assessed value of the district or eighty percent of the timber roll of such district in calendar year 1983 as determined under this chapter, whichever is greater, multiplied by the tax rate, if any, levied by the district under RCW 84.52.052 or 84.52.053 for purposes other than debt service payments and capital projects supported under subsection (2) of this section.

(4) After the distributions directed under subsections (2) and (3) of this section, if any, each taxing district shall receive an amount equal to the timber assessed value of the district multiplied by the tax rate, if any, levied as a regular levy of the district or as a special levy not included in subsection (2) or (3) of this section.

(5) If there are insufficient moneys in the county timber tax account to make full distribution under subsection (4) of this section, the county treasurer shall multiply the amount to be distributed to each taxing district under that subsection by a fraction. The numerator of the fraction is the county timber tax account balance before making the distribution under that subsection. The denominator of the fraction is the account balance which would be required to make full distribution under that subsection.

(6) After making the distributions under subsections (2) through (4) of this section in the full amount indicated for the calendar year, the county treasurer shall place any excess revenue up to twenty percent of the total distributions made for the year under subsections (2) through (4) of this section in a reserve status until the beginning of the next calendar year. Any moneys remaining in the county timber tax account after this amount is placed in reserve shall be distributed to each taxing district in the county in the same proportions as the distributions made under subsection (4) of this section. [1984 c 204 § 9.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.085 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.086 Payment of tax. (1) The taxes imposed under this chapter shall be computed with respect to timber harvested each calendar quarter and shall be due and payable in quarterly installments. Remittance shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrues. The taxpayer on or before such date shall make out a return, upon such forms and setting forth such information as the department of revenue may require, showing the amount of tax for which the taxpayer is liable for the preceding quarterly period and shall sign and transmit the same to the department of revenue, together with a remittance for the amount of tax.

(2) The taxes imposed by this chapter are in addition to any taxes imposed upon the same persons under chapter 82.04 RCW.

(3) Any harvester incurring less than ten dollars tax liability under this section in any calendar quarter is excused from the payment of such tax, but may be required by the department of revenue to file a return even though no tax may be due. [1984 c 204 § 10.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.33.091 Tables of stumpage values—Revised tables—Legislative review—Appeal. (1) The department of revenue shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values. Each year on or before December 31 for use the following January through June 30, and on or before June 30 for use the following July through December 31, the department shall prepare tables of stumpage values of each species or subclassification of timber within these units. The stumpage value shall be the amount that each such species or subclassification would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. These stumpage values, expressed in terms of a dollar amount per thousand board feet or other unit measure, shall be determined in a manner which makes reasonable and adequate allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions, and all other relevant factors from:

(a) Gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, and in similar quantities;

(b) Gross proceeds from sales of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest; or

(c) A combination of (a) and (b) of this subsection.

(2) Upon application from any person who plans to harvest damaged timber, the stumpage values for which have been materially reduced from the values shown in the applicable tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen cause, the department shall revise the stumpage value tables for any area in which such timber is located and

shall specify any additional accounting or other requirements to be complied with in reporting and paying the tax.

(3) The preliminary area designations and stumpage value tables and any revisions thereof are subject to review by the ways and means committees of the house of representatives and senate prior to finalization. Tables of stumpage values shall be signed by the director or the director's designee and authenticated by the official seal of the department. A copy thereof shall be mailed to anyone who has submitted to the department a written request for a copy.

(4) On or before the sixtieth day after the date of final adoption of any stumpage value tables, any harvester may appeal to the board of tax appeals for a revision of stumpage values for an area determined pursuant to subsection (3) of this section. [1984 c 204 § 11.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.093 State timber tax account A, state timber tax reserve account, timber tax distribution guarantee account—Distributions—Expiration of section. The state timber tax account A and state timber tax reserve account established in RCW 84.33.071 and the timber tax distribution guarantee account established in RCW 84.33.085 shall continue within the state general fund and state treasury, respectively, until all funds remaining therein after complying with subsections (4) and (5) of this section are distributed as follows:

(1) Any remaining timber tax moneys in the state timber tax account A and state timber tax reserve account shall be distributed in the following manner:

(a) Thirty-seven percent to the state general fund for use in support of the common schools.

(b) Subject to appropriation by the legislature, sixty-three percent to the counties of the state in the proportion the receipts of harvester excise tax from each county are to the total receipts of harvester excise tax from all counties in the state in calendar years 1982 and 1983.

(2) Any remaining timber tax moneys in the timber tax distribution guarantee account shall be distributed to the counties in the same proportions and percentages as provided for the state timber tax account A and the state timber tax reserve account on May 1, 1985.

(3) Distributions to the counties under authority of this section shall be deposited in the timber tax account of the counties and disbursed to taxing districts of each county in the same priority and as part of the distributions authorized by RCW 84.33.081.

(4) The taxes due and payable under RCW 84.33.071 with respect to timber harvested during the second and third quarters of calendar year 1984 shall be collected and deposited in the state treasury as though *this act had not been enacted.

(5) The payments required to be made through November 20, 1984, by the state treasurer to the treasurer of each timber county under RCW 84.33.080 shall be made as though *this act had not been enacted.

This section shall expire on January 1, 1986. [1984 c 204 § 12.]

***Reviser's note:** "This act" consists of the enactment of RCW 84.28.200 through 84.28.215, 84.33.035, 84.33.041, 84.33.042, 84.33.043, 84.33.044, 84.33.045, 84.33.046, 84.33.051, 84.33.055, 84.33.056, 84.33.057, 84.33.058, 84.33.059, 84.33.061, 84.33.062, 84.33.063, 84.33.064, 84.33.065, 84.33.066, 84.33.067, 84.33.081, 84.33.086, 84.33.091, 84.33.093, 84.33.096, the sections footnoted under RCW 84.28.200 and 84.33.035, and a temporary, uncodified section (1984 c 204 § 44); the 1984 c 204 amendments to RCW 39.36.015, 82.32.010, 84.33.010, 84.33.020, 84.33.040, 84.33.074, 84.33.075, 84.33.077, 84.33.078, 84.33.120, 84.33.170, 84.33.200, and 84.52.080; and the repeal of RCW 84.33.030, 84.33.050, 84.33.060, 84.33.071, 84.33.072, 84.33.080, 84.33.085, and 84.33.090.

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.096 Application of excise taxes' administrative provisions and definitions. All sections of chapter 82.32 RCW, except RCW 82.32.045 and 82.32.270, apply to the taxes imposed under this chapter. [1984 c 204 § 13.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.120 Forest land valuation—Assessor to list forest land at grade and class values—Computation of assessed value—Adjustment of values—Certification—Use—Notice of continuance—Appeals—Removal of classification—Compensating tax. (1) In preparing the assessment rolls as of January 1, 1982, for taxes payable in 1983 and each January 1st thereafter, the assessor shall list each parcel of forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (2) of this section and shall compute the assessed value of the land by using the same assessment ratio he applies generally in computing the assessed value of other property in his county. Values for the several grades of bare forest land shall be as follows.

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
1	1	\$141
	2	136
	3	131
	4	95
2	1	118
	2	114
	3	110
	4	80
3	1	93
	2	90
	3	87
	4	66
4	1	70
	2	68
	3	66
	4	52

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
5	1	51
	2	48
	3	46
	4	31
6	1	26
	2	25
	3	25
	4	23
7	1	12
	2	12
	3	11
	4	11
8		1

(2) On or before December 31, 1981, the department shall adjust, by rule under chapter 34.04 RCW, the forest land values contained in subsection (1) of this section in accordance with this subsection, and shall certify these adjusted values to the county assessor for his use in preparing the assessment rolls as of January 1, 1982. For the adjustment to be made on or before December 31, 1981, for use in the 1982 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1976, and June 30, 1981, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1975, and June 30, 1980, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(c) Adjust the forest land values contained in subsection (1) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

For the adjustments to be made on or before December 31, 1982, and each succeeding year thereafter, the same procedure shall be followed as described in this subsection utilizing harvester excise tax returns filed under RCW 82.04.291 and this chapter except that this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(3) In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him by the department of revenue, and he shall compute the assessed value of such land by using the same assessment ratio he applies generally in computing the assessed value of other property

in his county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to RCW 84.33.120(4) or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84.33 RCW.

(4) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

(5) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.120, as now or hereafter amended. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (7) of this section shall become due and payable by the seller or transferor at time of sale. The

county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (7) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b), (d), or (e) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: *Provided*, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 as now or hereafter amended.

(6) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (4) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(7) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsections (5)(e) and (9) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection (3) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as forest land.

(8) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be

fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(9) The compensating tax specified in subsection (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land.

(10) With respect to any land that has been designated prior to May 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may, prior to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land. [1984 c 204 § 23; 1981 c 148 § 7; 1980 c 134 § 2; 1974 ex.s. c 187 § 5; 1972 ex.s. c 148 § 5; 1971 ex.s. c 294 § 12.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Purpose—Severability—Effective dates—1981 c 148: See notes following RCW 84.33.071.

Severability—1974 ex.s. c 187: See note following RCW 84.33.071.

84.33.170 Application of chapter to Christmas trees. Notwithstanding any provision of this chapter to the contrary, this chapter shall not exempt from the ad valorem tax nor subject to the excise tax imposed by this chapter, Christmas trees which are grown on land which has been prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising such Christmas trees, and such land on which such Christmas trees stand shall not be taxed as provided in RCW 84.33.100 through 84.33.140. [1984 c 204 § 24; 1983 c 3 § 226; 1971 ex.s. c 294 § 17.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

84.33.200 Legislative review of timber tax system—Joint timber tax advisory committee—Information and data to be furnished. (1) The legislature shall

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review the system of distribution and allocation of all timber excise tax revenues in January, 1975 and each year thereafter to provide a uniform and equitable distribution and allocation of such revenues to the state and local taxing districts.

(2) In order to allow legislative review of the rules and regulations to be adopted by the department of revenue establishing the stumpage values provided for in RCW 84.33.091, such rules and regulations shall be effective not less than sixty days after transmitting to the staffs of the senate and house ways and means committees (or their successor committees) the same proposed rules and regulations as shall have been previously filed with the office of the code reviser pursuant to RCW 34.04.025(1)(a).

(3) In the event that a permanent timber tax rate is not set in 1979, a joint timber tax advisory committee shall be established. The joint advisory committee shall be composed of members of the house of representatives and the senate and co-chaired by a member of the house revenue committee and a member of the senate ways and means committee. The joint advisory committee shall recommend a rate level and distribution system on or before the convening of the forty-seventh legislature.

(4) The department of revenue and the department of natural resources shall make available to the revenue committees of the senate and house of representatives of the state legislature information and data, as it may be available, pertaining to the status of forest land grading throughout the state, the collection of timber excise tax revenues, the distribution and allocation of timber excise tax revenues to the state and local taxing districts, and any other information as may be necessary for the proper legislative review and implementation of the timber excise tax system, and in addition, the departments shall provide an annual report of such matters in January of each year to such committees. [1984 c 204 § 25; 1979 c 6 § 4; 1974 ex.s. c 187 § 9.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Severability—1974 ex.s. c 187: See note following RCW 84.33.071.

Chapter 84.34

OPEN SPACE, AGRICULTURAL, AND TIMBER LANDS—CURRENT USE ASSESSMENT—CONSERVATION FUTURES

Sections

- | | |
|-----------|--|
| 84.34.037 | Applications for current use classification—To whom made—Factors—Review. |
| 84.34.070 | Withdrawal from classification. |

84.34.037 Applications for current use classification—To whom made—Factors—Review. Applications for classification under RCW 84.34.020 subsection (1) or (3) shall be made to the county legislative authority. An application made for classification of land under RCW 84.34.020 subsection (1)(b), or (3) which is in an area subject to a comprehensive plan shall

be acted upon in the same manner in which an amendment to the comprehensive plan is processed. Application made for classification of land which is in an area not subject to a comprehensive plan shall be acted upon after a public hearing and after notice of the hearing shall have been given by one publication in a newspaper of general circulation in the area at least ten days before the hearing: *Provided*, That applications for classification of land in an incorporated area shall be acted upon by a determining authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located.

In determining whether an application made for classification under RCW 84.34.020, subsection (1)(b), or (3) should be approved or disapproved, the granting authority may take cognizance of the benefits to the general welfare of preserving the current use of the property which is the subject of application, and may consider whether or not preservation of current use of the land will (1) conserve or enhance natural or scenic resources, (2) protect streams or water supplies, (3) promote conservation of soils, wetlands, beaches or tidal marshes, (4) enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations, sanctuaries, or other open spaces, (5) enhance recreation opportunities, (6) preserve historic sites, (7) affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from granting the application: *Provided*, That the granting authority may approve the application with respect to only part of the land which is the subject of the application: *Provided further*, That if any part of the application is denied, the applicant may withdraw the entire application: *And provided further*, That the granting authority in approving in part or whole an application for land classified pursuant to RCW 84.34.020(1) or (3) may also require that certain conditions be met, including but not limited to the granting of easements: *And provided further*, That the granting or denial of the application for current use classification is a legislative determination and shall be reviewable only for arbitrary and capricious actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3). [1984 c 111 § 1; 1973 1st ex.s. c 212 § 5.]

84.34.070 Withdrawal from classification. When land has once been classified under this chapter, it shall remain under such classification and shall not be applied to other use except a transfer between classifications under RCW 84.34.020 (2) and (3) for at least ten years from the date of classification and shall continue under such classification until and unless withdrawn from classification after notice of request for withdrawal shall be made by the owner. During any year after eight years of the initial ten-year classification period have elapsed, notice of request for withdrawal of all or a portion of the land, which shall be irrevocable, may be given by the owner to the county assessor or assessors of the county

or counties in which such land is situated. In the event that a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when such land was originally granted classification pursuant to this chapter. Within seven days the county assessor shall transmit one copy of such notice to the legislative body which originally approved the application. The county assessor or assessors, as the case may be, shall, when two assessment years have elapsed following the date of receipt of such notice, withdraw such land from such classification and the land shall be subject to the additional tax due under RCW 84.34.108: *Provided*, That agreement to tax according to use shall not be considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty shall be imposed. [1984 c 111 § 2; 1973 1st ex.s. c 212 § 8; 1970 ex.s. c 87 § 7.]

Chapter 84.36 EXEMPTIONS

Sections	
84.36.030	Property used for character building, benevolent, protective or rehabilitative social services—Camp facilities—Veteran or relief organization owned property.
84.36.040	Libraries, orphanages, day care centers, nursing homes, hospitals.
84.36.045	Nonprofit organization property available without charge for medical research or training of medical personnel.
84.36.047	Nonprofit organization property used for transmission or reception of radio or television signals originally broadcast by governmental agencies.
84.36.048	Repealed.
84.36.050	Schools and colleges.
84.36.480	Nonprofit fair associations.
84.36.500	Conservation futures on agricultural land.
84.36.805	Conditions for obtaining exemptions by nonprofit organizations, associations or corporations.
84.36.810	Cessation of use under which exemption granted—Collection of taxes.
84.36.812	Additional tax payable at time of sale—Appeal of assessed values.
84.36.815	Initial and renewal applications for exemption—Affidavit certifying exempt status—Cancellation of taxes.
84.36.820	Application forms to be mailed to owners of exempt property—Failure to file before due date, effect.
84.36.830	Review of applications for exemption—Procedure—Approval or denial—Notice.

84.36.030 Property used for character building, benevolent, protective or rehabilitative social services—Camp facilities—Veteran or relief organization owned property. The following real and personal property shall be exempt from taxation:

(1) Property owned by nonprofit organizations or associations, organized and conducted for nonsectarian purposes, which shall be used for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages. The sale of donated merchandise shall not be considered a commercial use of the property under this section if the proceeds are devoted to the furtherance of the purposes of the selling organization or association as specified in this paragraph.

(2) Property owned by any nonprofit church, denomination, group of churches, or an organization or association, the membership of which is comprised solely of churches or their qualified representatives, which is utilized as a camp facility if used for organized and supervised recreational activities and church purposes as related to such camp facilities. The exemption provided by this paragraph shall apply to a maximum of two hundred acres of any such camp as selected by the church, including buildings and other improvements thereon.

(3) Property, including buildings and improvements required for the maintenance and safeguarding of such property, owned by nonprofit organizations or associations engaged in character building of boys and girls under eighteen years of age, and used for such purposes and uses, provided such purposes and uses are for the general public good: *Provided*, That if existing charters provide that organizations or associations, which would otherwise qualify under the provisions of this paragraph, serve boys and girls up to the age of twenty-one years, then such organizations or associations shall be deemed qualified pursuant to this section.

(4) Property owned by all organizations and societies of veterans of any war of the United States, recognized as such by the department of defense, which shall have national charters, and which shall have for their general purposes and objects the preservation of the memories and associations incident to their war service and the consecration of the efforts of their members to mutual helpfulness and to patriotic and community service to state and nation. To be exempt such property must be used in such manner as may be reasonably necessary to carry out the purposes and objects of such societies.

(5) Property owned by all corporations, incorporated under any act of congress, whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

(6) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805. [1984 c 220 § 1; 1983 1st ex.s. c 25 § 1; 1973 2nd ex.s. c 40 § 2. Prior: 1971 ex.s. c 292 § 70; 1971 ex.s. c 64 § 1; 1969 c 137 § 1; 1961 c 15 § 84.36.030; prior: 1955 c 196 § 5; prior: (i) 1939 c 206 § 8, part; 1933 ex.s. c 19 § 1, part; 1933 c 115 § 1, part; 1929 c 126 § 1, part; 1925 ex.s. c 130 § 7, part; 1915 c 131 § 1, part; 1903 c 178 § 1, part; 1901 c 176 § 1, part; 1899 c 141 § 2, part; 1897 c 71 §§ 1, 5, part; 1895 c 176 § 2, part; 1893 c 124 §§ 1, 5, part; 1891 c 140 §§ 1, 5, part; 1890 p 532 §§ 1, 5, part; 1886 p 47 § 1, part; Code 1881 § 2829, part; 1871 p 37 § 4, part; 1869 p 176 § 4, part; 1867 p 61 § 2, part; 1854 p 331 § 2, part; RRS § 11111, part. (ii) 1945 c 109 § 1; Rem. Supp. 1945 § 11111a.]

Applicability—1983 1st ex.s. c 25: "This act is effective for property taxes levied in calendar year 1983 and due and payable in calendar year 1984 and thereafter." [1983 1st ex.s. c 25 § 2.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

84.36.040 Libraries, orphanages, day care centers, nursing homes, hospitals. The real and personal property used by nonprofit (1) day care centers as defined pursuant to RCW 74.15.020 as now or hereafter amended; (2) free public libraries; (3) orphanages and orphan asylums; (4) homes for the aged; (5) homes for the sick or infirm; and, (6) hospitals for the sick, which are used for the purposes of such organizations shall be exempt from taxation: *Provided*, That the benefit of the exemption inures to the user.

To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805. [1984 c 220 § 2; 1973 2nd ex.s. c 40 § 3; 1973 1st ex.s. c 154 § 119; 1969 ex.s. c 245 § 1; 1961 c 15 § 84.36.040. Prior: 1955 c 196 § 6; prior: 1939 c 206 § 8, part; 1933 ex.s. c 19 § 1, part; 1933 c 115 § 1, part; 1929 c 126 § 1, part; 1925 ex.s. c 130 § 7, part; 1915 c 131 § 1, part; 1903 c 178 § 1, part; 1901 c 176 § 1, part; 1899 c 141 § 2, part; 1897 c 71 §§ 1, 5, part; 1895 c 176 § 2, part; 1893 c 124 §§ 1, 5, part; 1891 c 140 §§ 1, 5, part; 1890 p 532 §§ 1, 5, part; 1886 p 47 § 1, part; Code 1881 § 2829, part; 1871 p 37 § 4, part; 1869 p 176 § 4, part; 1867 p 61 § 2, part; 1854 p 331 § 2, part; RRS § 11111, part.]

84.36.045 Nonprofit organization property available without charge for medical research or training of medical personnel. All property owned in fee or by contract purchase by any nonprofit corporation or association which is available without charge for research by, or for the training of, doctors, nurses, laboratory technicians, hospital administrators and staff or other hospital personnel, and which otherwise is used for medical research, the results of which will be available without cost to the public, shall be exempt from ad valorem taxation.

To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805. [1984 c 220 § 3; 1975 1st ex.s. c 291 § 23.]

Effective dates—**Severability**—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.047 Nonprofit organization property used for transmission or reception of radio or television signals originally broadcast by governmental agencies. The following property shall be exempt from taxation:

Real and personal property owned by or leased to any nonprofit corporation or association and, except as provided in RCW 84.36.805, used exclusively to rebroadcast, amplify, or otherwise facilitate the transmission and/or reception of radio and/or television signals originally broadcast by foreign or domestic governmental agencies for reception by the general public: *Provided*, That in the event such property is leased, the benefit of the exemption shall inure to the user. [1984 c 220 § 4; 1977 ex.s. c 348 § 1.]

Effective date—**Construction**—1977 ex.s. c 348: "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, shall take effect immediately and shall be effective for assessment in 1977 for taxes due and payable in 1978." [1977 ex.s. c 348 § 3.]

84.36.048 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

84.36.050 Schools and colleges. The following property shall be exempt from taxation:

Property owned or used for any nonprofit school or college in this state for educational purposes or cultural or art educational programs as defined in RCW 82.04-.4328. Real property so exempt shall not exceed four hundred acres in extent and, except as provided in RCW 84.36.805, shall be used exclusively for college or campus purposes including but not limited to, buildings and grounds designed for the educational, athletic, or social programs of said institution, the housing of students, the housing of religious faculty, the housing of the chief administrator, athletic buildings and all other school or college facilities, the need for which would be nonexistent but for the presence of such school or college and which are principally designed to further the educational functions of such college or schools. If the property is leased, the benefit of the exemption shall inure to the user. [1984 c 220 § 5; 1973 2nd ex.s. c 40 § 4; 1971 ex.s. c 206 § 2; 1970 ex.s. c 55 § 1; 1961 c 15 § 84.36.050. Prior: 1955 c 196 § 7; prior: 1939 c 206 § 8, part; 1933 ex.s. c 19 § 1, part; 1933 c 115 § 1, part; 1929 c 126 § 1, part; 1925 ex.s. c 130 § 7, part; 1915 c 131 § 1, part; 1903 c 178 § 1, part; 1901 c 176 § 1, part; 1899 c 141 § 2, part; 1897 c 71 §§ 1, 5, part; 1895 c 176 § 2, part; 1893 c 124 §§ 1, 5, part; 1891 c 140 §§ 1, 5, part; 1890 p 532 §§ 1, 5, part; 1886 p 47 § 1, part; Code 1881 § 2829, part; 1871 p 37 § 4, part; 1869 p 176 § 4, part; 1867 p 61 § 2, part; 1854 p 331 § 2, part; RRS § 11111, part. Formerly RCW 84.40.010.]

Effective date—1970 ex.s. c 55: "The effective date of this 1970 amendatory act is July 1, 1970." [1970 ex.s. c 55 § 14.]

84.36.480 Nonprofit fair associations. The following property shall be exempt from taxation: The real and personal property of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture. To be exempt under this section, the property must be used exclusively for fair purposes, except as provided in RCW 84.36.805. However, the loan or rental of property otherwise exempt under this section to a private concessionaire or to any person for use as a concession in conjunction with activities permitted under this section shall not nullify the exemption if the concession charges are subject to agreement and the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. [1984 c 220 § 6; 1975 1st ex.s. c 291 § 22.]

Effective dates—**Severability**—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.500 Conservation futures on agricultural land. All conservation futures on agricultural lands acquired

pursuant to RCW 64.04.130 or 84.34.200 through 84.34.240, that are held by any nonprofit corporation or association, the primary purpose of which is conserving agricultural lands and preventing the conversion of such lands to nonagricultural uses, shall be exempt from ad valorem taxation if:

(1) The conservation futures are of an unlimited duration;

(2) The conservation futures are effectively restricted to preclude nonagricultural uses on such agricultural land; and

(3) The lands are classified as farm and agricultural lands under chapter 84.34 RCW: *Provided*, That at such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in RCW 84.34.108(3) shall be imposed. [1984 c 131 § 11.]

84.36.805 Conditions for obtaining exemptions by nonprofit organizations, associations or corporations. In order to be exempt pursuant to RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480, the nonprofit organizations, associations or corporations shall satisfy the following conditions:

(1) The property is used exclusively for the actual operation of the activity for which exemption is granted and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemption under RCW 84.36.037, the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted;

(2) The property is irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption: *Provided*, That the provision of this subsection shall not apply to those qualified for exemption pursuant to RCW 84.36.040 if the property used for the purpose stated is either leased or rented;

(3) The facilities and services are available to all regardless of race, color, national origin or ancestry;

(4) The organization, association, or corporation is duly licensed or certified where such licensing or certification is required by law or regulation;

(5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status;

(6) The director of the department of revenue shall have access to its books in order to determine whether such organization, association, or corporation is exempt from taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037, 84.36.040, 84.36.045, 84.36.047, 84.36.050, 84.36.060, 84.36.350, and 84.36.480. [1984 c 220 § 7; 1981 c 141 § 4; 1973 2nd ex.s. c 40 § 7.]

Applicability, construction—1981 c 141: See note following RCW 84.36.060.

84.36.810 Cessation of use under which exemption granted—Collection of taxes. (1) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.040, 84.36.050, 84.36.060, and 84.36.037, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes: *Provided*, That where the property has been granted an exemption for more than ten years, taxes and interest shall not be assessed under this section.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property has lost its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on property that had been exempt under RCW 84.36.040. [1984 c 220 § 8; 1983 c 185 § 1; 1981 c 141 § 5; 1977 ex.s. c 209 § 1; 1973 2nd ex.s. c 40 § 8.]

Applicability, construction—1981 c 141: See note following RCW 84.36.060.

84.36.812 Additional tax payable at time of sale—Appeal of assessed values. All additional taxes imposed under RCW 84.36.262 or 84.36.810 shall become due and payable by the seller or transferor at the time of sale. The county auditor shall not accept an instrument of conveyance unless the additional tax has been paid or

the department of revenue has determined that the property is not subject to RCW 84.36.262 or 84.36.810. The seller, the transferor, or the new owner may appeal the assessed values upon which the additional tax is based to the county board of equalization. [1984 c 220 § 9.]

84.36.815 Initial and renewal applications for exemption—Affidavit certifying exempt status—Cancellation of taxes. In order to qualify for exempt status for real or personal property pursuant to the provisions of chapter 84.36 RCW, as now or hereafter amended, all foreign national governments, churches, cemeteries, non-governmental nonprofit corporations, organizations, and associations, private schools or colleges, and soil and water conservation districts shall file an initial application on or before March 31 with the state department of revenue. All applications shall be filed on forms prescribed by the department and shall be signed by an authorized agent of the applicant.

In order to requalify for exempt status, such applicants except nonprofit cemeteries shall file a renewal application on or before March 31 of the fourth year following the date of such initial application and on or before March 31 of every fourth year thereafter. An applicant previously granted exemption shall annually file, on forms prescribed by the department, an affidavit certifying the exempt status of the real or personal property owned by the exempt organization. When an organization acquires real property qualified for exemption or converts real property to exempt status, such organization shall file an initial application for the property within sixty days following the acquisition or conversion. If the application is filed after the expiration of the sixty-day period a late filing penalty shall be imposed pursuant to RCW 84.36.825, as now or hereafter amended.

When organizations acquire real property qualified for exemption or convert real property to an exempt use, the property, upon approval of the application for exemption, is entitled to a cancellation of the pro rata portion of taxes payable for the remaining portion of the year from the date of acquisition or conversion plus exemption for the following year. If the owner has paid taxes allocable to that portion of the year subsequent to the date of acquisition or conversion, the owner is entitled to a pro rata refund of the amount paid on the property so acquired or converted. [1984 c 220 § 10; 1975 1st ex.s. c 291 § 18; 1973 2nd ex.s. c 40 § 9.]

Effective dates—Severability—1975 1st ex.s. c 291: See notes following RCW 82.04.050.

84.36.820 Application forms to be mailed to owners of exempt property—Failure to file before due date, effect. On or before January 1 of each year, the department of revenue shall mail application forms to owners of record of property exempted from property taxation at their last known address who must file annually for continued exemption. The department of revenue shall notify the assessor of the county in which the property is located who shall remove the tax exemption from any

property if an application has not been approved for exemption: *Provided*, That failure to file and subsequent removal of exemption shall not be subject to review as provided in RCW 84.36.850: *Provided further*, That the department of revenue shall review applications received after the March 31 due date, but such applications shall be subject to late filing penalties provided in RCW 84.36.825 as now or hereafter amended. [1984 c 220 § 11; 1975-'76 2nd ex.s. c 127 § 1; 1973 2nd ex.s. c 40 § 10.]

84.36.830 Review of applications for exemption—Procedure—Approval or denial—Notice. The department of revenue shall review each application for exemption and make a determination thereon prior to August 1st of the assessment year for which such application is made: *Provided*, That each exemption application received after March 31 shall be reviewed and determination made thereon within thirty days of the date received or by August 1, whichever is later. The department of revenue may request such additional relevant information as it deems necessary. The department of revenue shall make a physical inspection of the property and satisfy itself as to the use of all parcels prior to approving or denying the application, and thereafter at regular intervals designed to insure compliance with this chapter. When the department of revenue has examined the application and the subject property, it shall either approve or deny the request and clearly state the reasons for denial in written notification by certified mail to the applicant. The department shall also notify the assessor of the county in which the property is located. The county assessor shall place such property on the assessment roll for the current year. [1984 c 220 § 12; 1975-'76 2nd ex.s. c 127 § 3; 1973 2nd ex.s. c 40 § 12.]

Chapter 84.38

DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES

Sections	
84.38.020	Definitions.
84.38.030	Conditions and qualifications for claiming deferral.
84.38.040	Declaration to defer special assessments and/or real property taxes—Filing—Contents—Appeal.
84.38.100	Lien of state, mortgage or purchase contract holder—Priority—Amount—Interest.
84.38.110	Duties of county assessor.
84.38.120	Payments to local improvement or taxing districts of assessments or taxes deferred. (Effective July 1, 1985.)
84.38.130	When deferred assessments or taxes become payable.
84.38.140	Collection of deferred assessments or taxes.

84.38.020 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Claimant" means a person who is receiving a property tax exemption under RCW 84.36.381 through 84.36.389 and who either elects or is required under RCW 84.64.030 or 84.64.050 to defer payment of the special assessments and/or real property taxes accrued

on his residence by filing a declaration to defer as provided by this chapter.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

(2) "Department" means the state department of revenue.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Special assessment" means the charge or obligation imposed by a city, town, county, or other municipal corporation upon property specially benefited by a local improvement, including assessments under chapters 35-.44, 36.88, 36.94, 53.08, 54.16, 56.20, 57.16, 86.09, and 87.03 RCW and any other relevant chapter.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year. [1984 c 220 § 20; 1979 ex.s. c 214 § 5; 1975 1st ex.s. c 291 § 27.]

84.38.030 Conditions and qualifications for claiming deferral. A claimant may defer payment of special assessments and/or real property taxes on his property that is receiving an exemption under RCW 84.36.381 through 84.36.389 on up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(2) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value.

(3) In the case of special assessment deferral, claimant must have opted for payment of such special assessments on the installment method if such method was available. [1984 c 220 § 21; 1979 ex.s. c 214 § 6; 1975 1st ex.s. c 291 § 28.]

84.38.040 Declaration to defer special assessments and/or real property taxes—Filing—Contents—Appeal.

(1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter shall file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due or thirty days after receiving notice under RCW 84.64.030 or 84.64.050, whichever is later: *Provided*, That for good cause shown, the department may waive this requirement.

(2) The declaration shall designate the property to which the deferral applies, and shall include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. Each copy shall be signed by the claimant subject to the penalties as provided in chapter 9.72 RCW for the false swearing. The first declaration to be filed in a county shall include proof of the claimant's age acceptable to the assessor.

(3) The county assessor shall determine if each claimant shall be granted a deferral for each year but the claimant shall have the right to appeal this determination to the county board of equalization whose decision shall be final as to the deferral of that year. [1984 c 220 § 22; 1979 ex.s. c 214 § 7; 1975 1st ex.s. c 291 § 29.]

84.38.100 Lien of state, mortgage or purchase contract holder—Priority—Amount—Interest. Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, it shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: *Provided*, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest at the rate of eight percent per year from the time it could have been paid before delinquency until said obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ownership for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor. [1984 c 220 § 23; 1981 c 322 § 1; 1975 1st ex.s. c 291 § 35.]

Effective date—1984 c 220: See note following RCW 84.38.120.

84.38.110 Duties of county assessor. The county assessor shall:

(1) Immediately transmit one copy of each declaration to defer to the department of revenue. The department may audit any declaration and shall notify the assessor as soon as possible of any claim where any factor appears to disqualify the claimant for the deferral sought.

(2) Transmit one copy of each declaration to defer a special assessment to the local improvement district which imposed such assessment.

(3) Compute the dollar tax rate for the county as if any deferrals provided by this chapter did not exist.

(4) As soon as possible notify the department of revenue and the county treasurer of the amount of real property taxes deferred for that year and notify the department of revenue and the respective treasurers of municipal corporations of the amount of special assessments deferred for each local improvement district

within such unit. [1984 c 220 § 24; 1975 1st ex.s. c 291 § 36.]

84.38.120 Payments to local improvement or taxing districts of assessments or taxes deferred. (Effective July 1, 1985.) After receipt of the notification from the county assessor of the amount of deferred special assessments and/or real property taxes the department shall pay, from amounts appropriated for that purpose, to the treasurers of such municipal corporations said amounts, equivalent to the amount of special assessments and/or real property taxes deferred, to be distributed to the local improvement or taxing districts which levied the taxes so deferred. [1984 c 220 § 25; 1975 1st ex.s. c 291 § 37.]

Effective date—1984 c 220 § 23: *"Section 23 of this act shall take effect July 1, 1985." [1984 c 220 § 29.]

***Reviser's note:** Due to a Senate amendment to House Bill No. 1201 (1984 c 220), "section 23" became "section 25." During enrolling, "section 23" was renumbered as "section 25" under the mandate in the amendment to "renumber the sections consecutively and correct any internal references accordingly," but the internal reference to "section 23" was not changed. "Section 23 of this act" consists of the 1984 c 220 amendment to RCW 84.38.100. "Section 25 of this act" consists of the 1984 c 220 amendment to RCW 84.38.120.

84.38.130 When deferred assessments or taxes become payable. Special assessments and/or real property tax obligations deferred under this chapter shall become payable together with interest as provided in RCW 84.38.100:

(1) Upon the sale of property which has a deferred special assessment and/or real property tax lien upon it.

(2) Upon the death of the claimant with an outstanding deferred special assessment and/or real property tax lien except a surviving spouse who is qualified under this chapter may elect to incur the special assessment and/or real property tax lien which shall then be payable by that spouse as provided in this section.

(3) Upon the condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070.

(4) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted.

(5) Upon the failure of any condition set forth in RCW 84.38.030. [1984 c 220 § 26; 1975 1st ex.s. c 291 § 38.]

84.38.140 Collection of deferred assessments or taxes. (1) The county treasurer shall collect all the amounts deferred together with interest under this chapter, in the manner provided for in chapter 84.56 RCW. For purposes of collection of deferred taxes, the provisions of chapters 84.56, 84.60, and 84.64 RCW shall be applicable.

(2) When any deferred special assessment and/or real property taxes together with interest are collected the moneys shall be credited to a special account in the county treasury. The county treasurer shall remit the

amount of deferred special assessment and/or real property taxes together with interest to the department within thirty days from the date of collection.

(3) The department shall deposit the deferred taxes in the state general fund. [1984 c 220 § 27; 1975 1st ex.s. c 291 § 39.]

**Chapter 84.40
LISTING OF PROPERTY**

Sections	
84.40.350	Assessment and taxation of property losing exempt status.
84.40.360	Loss of exempt status—Property subject to pro rata portion of taxes for remainder of year.
84.40.370	Loss of exempt status—Valuation date—Extension on rolls.
84.40.380	Loss of exempt status—When taxes due and payable—Dates of delinquency—Interest.
84.40.390	Loss of exempt status—Taxes constitute lien on property.

84.40.350 Assessment and taxation of property losing exempt status. Real property, previously exempt from taxation, shall be assessed and taxed as provided in RCW 84.40.350 through 84.40.390 when transferred to private ownership by any exempt organization including the United States of America, the state or any political subdivision thereof by sale or exchange or by a contract under conditions provided for in RCW 84.40.230 or when the property otherwise loses its exempt status. [1984 c 220 § 13; 1971 ex.s. c 44 § 2.]

84.40.360 Loss of exempt status—Property subject to pro rata portion of taxes for remainder of year. Property which no longer retains its exempt status shall be subject to a pro rata portion of the taxes allocable to the remaining portion of the year after the date that the property lost its exempt status. If a portion of the property has lost its exempt status, only that portion shall be subject to tax under this section. [1984 c 220 § 14; 1971 ex.s. c 44 § 3.]

84.40.370 Loss of exempt status—Valuation date—Extension on rolls. The assessor shall list the property and assess it with reference to its value on the date the property lost its exempt status unless such property has been previously listed and assessed. He shall extend the taxes on the tax roll using the rate of percent applicable as if the property had been assessed in the previous year. [1984 c 220 § 15; 1971 ex.s. c 44 § 4.]

84.40.380 Loss of exempt status—When taxes due and payable—Dates of delinquency—Interest. All taxes made payable pursuant to the provisions of RCW 84.40.350 through 84.40.390 shall be due and payable to the county treasurer on or before the thirtieth day of April in the event the date of execution of the instrument of transfer occurs prior to that date unless the time of payment is extended under the provisions of RCW 84.56.020. Such taxes shall be due and payable on or

before the thirty-first day of October in the event the date the property lost its exempt status is subsequent to the thirtieth day of April but prior to the thirty-first day of October. In all other cases such taxes shall be due and payable within thirty days after the date the property lost its exempt status. In no case, however, shall the taxes be due and payable less than thirty days from the date the property lost its exempt status. All taxes due and payable after the dates herein shall become delinquent, and interest at the rate specified in RCW 84.56.020 for delinquent property taxes shall be charged upon such unpaid taxes from the date of delinquency until paid. [1984 c 220 § 16; 1971 ex.s. c 44 § 5.]

84.40.390 Loss of exempt status—Taxes constitute lien on property. Taxes made due and payable under RCW 84.40.350 through 84.40.390 shall be a lien on the property from the date the property lost its exempt status. [1984 c 220 § 17; 1971 ex.s. c 44 § 6.]

**Chapter 84.48
EQUALIZATION OF ASSESSMENTS**

Sections	
84.48.110	Transcript of proceedings to county assessors—Delinquent tax for certain preceding years included.

84.48.110 Transcript of proceedings to county assessors—Delinquent tax for certain preceding years included. Within three days after the record of the proceedings of the state board of equalization is certified by the director of the department, the department shall transmit to each county assessor a copy of the record of the proceedings of the board, specifying the amount to be levied and collected on said assessment books for state purposes for such year, and in addition thereto it shall certify to each county assessor the amount due to each state fund and unpaid from such county for the seventh preceding year, and such delinquent state taxes shall be added to the amount levied for the current year. The department shall close the account of each county for the seventh preceding year and charge the amount of such delinquency to the tax levy of the current year. All taxes collected on and after the first day of July last preceding such certificate, on account of delinquent state taxes for the seventh preceding year shall belong to the county and by the county treasurer be credited to the current expense fund of the county in which collected.

For taxes due in 1985, the department shall add the delinquent taxes for the fifth, sixth, and seventh preceding year to the taxes due, and beginning with taxes due in 1986, the department shall add only the delinquent taxes for the fifth preceding year to the amount of taxes due each year. [1984 c 132 § 4; 1981 c 260 § 17. Prior: 1979 ex.s. c 86 § 4; 1979 c 151 § 185; 1973 c 95 § 11; 1961 c 15 § 84.48.110; prior: 1925 ex.s. c 130 § 71; RRS § 11223; prior: 1899 c 141 § 5; 1897 c 71 § 61; 1893 c 124 § 62; 1890 p 558 § 76.]

Severability—1979 ex.s. c 86: See note following RCW 13.24.040.

Chapter 84.52
LEVY OF TAXES

Sections

- 84.52.069 Six-year regular tax levies for emergency medical care and services.
84.52.080 Extension of taxes on rolls—Form of certificate—Delivery to treasurer.

84.52.069 Six-year regular tax levies for emergency medical care and services. (1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, or fire protection district.

(2) A taxing district may impose additional regular property tax levies in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the taxing district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the electors thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty per centum of the total votes cast in such taxing district at the last preceding general election when the number of electors voting on the proposition does not exceed forty per centum of the total votes cast in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition when the number of electors voting on the proposition exceeds forty per centum of the total votes cast in such taxing district in the last preceding general election. Ballot propositions shall conform with RCW 29.30.111.

(3) Any tax imposed under this section shall be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services.

(4) If a county levies a tax under this section, no taxing district within the county may levy a tax under this section. No other taxing district may levy a tax under this section if another taxing district has levied a tax under this section within its boundaries: Provided, That if a taxing district within a county levies this tax, and the voters of the county subsequently approve a levying of this tax, then the tax levy for emergency medical services shall cease being levied in the taxing district originally levying it and shall be replaced with the county-wide levy. Whenever a tax is levied county-wide, the service shall, insofar as is feasible, be provided throughout the county: Provided further, That no county-wide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county: Provided further, That this section and RCW 36.32.480 shall not prohibit any city or town from levying an annual excess levy to fund emergency medical services.

(5) The tax levy authorized in this section is in addition to the tax levy authorized in RCW 84.52.043.

(6) The limitation in RCW 84.55.010 shall not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section. [1984 c 131 § 5; 1979 ex.s. c 200 § 1.]

Purpose—1984 c 131 §§ 3-9: See note following RCW 29.30.111.

Severability—1979 ex.s. c 200: "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 200 § 3.]

84.52.080 Extension of taxes on rolls—Form of certificate—Delivery to treasurer. (1) The county assessor shall extend the taxes upon the tax rolls in the form herein prescribed. The rate percent necessary to raise the amounts of taxes levied for state and county purposes, and for purposes of taxing districts coextensive with the county, shall be computed upon the assessed value of the property of the county; the rate percent necessary to raise the amount of taxes levied for any taxing district within the county shall be computed upon the assessed value of the property of the district; all taxes assessed against any property shall be added together and extended on the rolls in a column headed consolidated or total tax. In extending any tax, whenever it amounts to a fractional part of a cent greater than five mills it shall be made one cent, and whenever it amounts to five mills or less than five mills it shall be dropped. The amount of all taxes shall be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district which has classified or designated forest land under chapter 84.33 RCW, other than the state, the county assessor shall add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property: Provided, That for school districts maintenance and operations levies only one-half of the district's timber assessed value shall be added.

(3) Upon the completion of such tax extension, it shall be the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I, _____, assessor of _____ county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of _____ for the year one thousand nine hundred and _____.

Witness my hand this _____ day of _____, 19__.

_____, County Assessor

(4) The county assessor shall deliver said tax rolls to the county treasurer on or before the fifteenth day of December, taking his receipt therefor, and at the same time the county assessor shall provide the county auditor with an abstract of the tax rolls showing the total

amount of taxes collectible in each of the taxing districts. [1984 c 204 § 14; 1965 ex.s. c 7 § 1; 1961 c 15 § 84.52.080. Prior: 1925 ex.s. c 130 § 79; RRS § 11240; prior: 1909 c 230 § 4; 1905 c 128 § 1; 1897 c 71 §§ 64, 65; 1893 c 124 §§ 65, 66; 1890 p 566 §§ 79, 81; Code 1881 §§ 2883, 2884.]

Savings—Effective date—1984 c 204: See notes following RCW 84.33.035.

Chapter 84.56 COLLECTION OF TAXES

Sections

84.56.020	Taxes collected by treasurer—Dates of delinquency—Interest—Penalties.
84.56.025	Waiver of interest and penalties—Circumstances.
84.56.260	Continuing power to collect taxes.
84.56.270	Court cancellation of personal taxes more than four years delinquent.

84.56.020 Taxes collected by treasurer—Dates of delinquency—Interest—Penalties. The county treasurer shall be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. All taxes upon real and personal property made payable by the provisions of this title shall be due and payable to the treasurer as aforesaid on or before the thirtieth day of April and shall be delinquent after that date: *Provided*, That when the total amount of tax on personal property or on any lot, block or tract of real property payable by one person is ten dollars or more, and if one-half of such tax be paid on or before the said thirtieth day of April, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date: *Provided further*, That when the total amount of tax on any lot, block or tract of real property payable by one person is ten dollars or more, and if one-half of such tax be paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of such tax, the remainder of such tax shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

Delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis from the date of delinquency until paid. Interest shall be calculated at the rate in effect at the time of payment of the tax, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(1) A penalty of three percent shall be assessed on the amount of tax delinquent on May 31st of the year in which the tax is due.

(2) An additional penalty of eight percent shall be assessed on the total amount of tax delinquent on November 30th of the year in which the tax is due.

(3) Penalties under this section shall not be assessed on taxes that were first delinquent prior to 1982.

For purposes of this chapter, "interest" means both interest and penalties.

All collections of interest on delinquent taxes shall be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, shall, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and shall be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations. [1984 c 131 § 1; 1981 c 322 § 2; 1974 ex.s. c 196 § 1; 1974 ex.s. c 116 § 1; 1971 ex.s. c 288 § 3; 1969 ex.s. c 216 § 3; 1961 c 15 § 84.56.020. Prior: 1949 c 21 § 1; 1935 c 30 § 2; 1931 c 113 § 1; 1925 ex.s. c 130 § 83; Rem. Supp. 1949 § 11244; prior: 1917 c 141 § 1; 1899 c 141 § 6; 1897 c 71 § 68; 1895 c 176 § 14; 1893 c 124 § 69; 1890 p 561 § 84; Code 1881 § 2892. Formerly RCW 84.56.020 and 84.56.030.]

Applicability—1984 c 131 § 1: "Section 1 of this act applies to taxes payable in 1985 and thereafter." [1984 c 131 § 12.] "Section 1 of this act" consists of the 1984 c 131 amendment to RCW 84.56.020.

Severability—1974 ex.s. c 196: "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 196 § 9.]

Savings—Severability—1971 ex.s. c 288: See notes following RCW 84.40.030.

Advance deposit of taxes on certain platted property: RCW 58.08.040.

84.56.025 Waiver of interest and penalties—Circumstances. The interest and penalties for delinquencies on property taxes, which taxes are levied on real estate in the year of a conveyance of the real estate and which are collected in the following year, shall be waived by the county treasurer under the following circumstances:

(1) Records conveying the real estate were filed with the county auditor on or before November 30 of the year the taxes are levied;

(2) A grantee's name and address are included in the records; and

(3) The notice for these taxes due, as provided in RCW 84.56.050, was not sent to a grantee due to error by the county. Where such waiver of interest and penalties has occurred, the full amount of interest and penalties shall be reinstated if the grantee fails to pay the delinquent taxes within thirty days of receiving notice that the taxes are due. Each county treasurer shall, subject to guidelines prepared by the department of revenue, establish administrative procedures to determine if grantees are eligible for this waiver. [1984 c 185 § 1.]

84.56.260 Continuing power to collect taxes. The power and duty to levy on property and collect any tax due and unpaid shall continue in and devolve upon the county treasurer and his successors in office after his return to the county auditor, and until the tax is paid; and the warrant attached to the assessment roll shall continue in force and confer authority upon the treasurer to

whom the same was issued, and upon his successors in office, to collect any tax due and uncollected thereon. This section shall apply to all assessment rolls and the warrants thereto attached: *Provided*, That taxes imposed but not collected on boats for the years 1980 through 1982 may not be collected. [1984 c 250 § 7; 1961 c 15 § 84.56.260. Prior: 1925 ex.s. c 130 § 96; RRS § 11257; prior: 1897 c 71 § 74; 1893 c 124 § 75.]

84.56.270 Court cancellation of personalty taxes more than four years delinquent. The county treasurer of any county of the state of Washington, after he has first received the approval of the board of county commissioners of such county, through a resolution duly adopted, is hereby empowered to petition the superior court in or for his county to finally cancel and completely extinguish the lien of any delinquent personal property tax which appears on the tax rolls of his county, which is more than four years delinquent, which he attests to be beyond hope of collection, and the cancellation of which will not impair the obligation of any bond issue nor be precluded by any other legal impediment that might invalidate such cancellation. The superior court shall have jurisdiction to hear any such petition and to enter such order as it shall deem proper in the premises. [1984 c 132 § 5; 1961 c 15 § 84.56.270. Prior: 1945 c 59 § 1; Rem. Supp. 1945 § 11265-1.]

Chapter 84.64

CERTIFICATES OF DELINQUENCY

Sections

- | | |
|-----------|--|
| 84.64.030 | Foreclosure—Notice and summons—Cost to be included in redemption—Prohibition on issuance of certificate on certain residential property. |
| 84.64.050 | Certificate to county—Foreclosure—Notice—Prohibition on issuance of certificate on certain residential property. |

84.64.030 Foreclosure—Notice and summons—Cost to be included in redemption—Prohibition on issuance of certificate on certain residential property. Any time after the expiration of three years from the original date of delinquency of any tax included in a certificate of delinquency, the holder of any certificate of delinquency may give notice and summons to the owner of the property described in such certificate, and any person having a recorded interest in or lien of record upon the property, that he or she will apply to the superior court of the county in which such property is situated for a judgment foreclosing the lien against the property mentioned therein. Such notice and summons shall contain:

(1) The title of the court, the description of the property and the name of the owner thereof, if known, the name of the holder of the certificate, the date thereof, and the amount for which it was issued, the year or years for the delinquent taxes for which it was issued, the amount of all taxes paid for prior or subsequent years, and the rate of interest on said amount.

(2) A direction to the owner summoning him or her to appear within sixty days after service of the notice and summons, exclusive of the day of service, and defend the action or pay the amount due, and when service is made by publication a direction to the owner, summoning him or her to appear within sixty days after the date of the first publication of the notice and summons, exclusive of the day of said first publication, and defend the action or pay the amount due.

(3) A notice that, in case of failure so to do, judgment will be rendered foreclosing the lien of such taxes and costs against the land and premises named.

The notice and summons shall be subscribed by the holder of the certificate of delinquency, or by someone in his or her behalf, and residing within the state of Washington, and upon whom all process may be served.

A copy of said notice and summons shall be delivered to the county treasurer. Thereafter when any owner of real property or person interested therein seeks to redeem as provided in RCW 84.64.070, the treasurer shall ascertain the amount of costs accrued in foreclosing said certificate and include said costs as a part of the redemption required to be paid. Cost incurred for a title search required by RCW 84.64.050 shall be included.

The notice and summons shall be served in the same manner as a summons in a civil action is served in the superior court.

The county treasurer shall not issue certificates of delinquency upon property which is eligible for deferral of taxes under chapter 84.38 RCW but shall require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW. [1984 c 220 § 18; 1984 c 179 § 1; 1981 c 322 § 3; 1972 ex.s. c 84 § 1; 1961 c 15 § 84.64.030. Prior: 1925 ex.s. c 130 § 115; RRS § 11276; prior: 1901 c 178 § 1; 1899 c 141 § 13; 1897 c 71 §§ 96, 97.]

Reviser's note: This section was amended by 1984 c 179 § 1 and by 1984 c 220 § 18, 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).

84.64.050 Certificate to county—Foreclosure—Notice—Prohibition on issuance of certificate on certain residential property. After the expiration of three years from the date of delinquency, when any property remains on the tax rolls for which no certificate of delinquency has been issued, the county treasurer shall proceed to issue certificates of delinquency on said property to the county for all years' taxes, interest, and costs: *Provided*, That the county treasurer, with the consent of the county legislative authority, may elect to issue a certificate for fewer than all years' taxes, interest, and costs to a minimum of the taxes, interest, and costs for the earliest year.

The change to a three-year grace period shall first be effective on May 1, 1983. Prior to that date, the county treasurer shall send a notice to all taxpayers with taxes delinquent for two years or more, notifying them of the change in the grace period. The treasurer shall file said certificates when completed with the clerk of the court,

and the treasurer shall thereupon, with such legal assistance as the county legislative authority shall provide in counties having a population of thirty thousand or more, and with the assistance of the county prosecuting attorney in counties having a population of less than thirty thousand, proceed to foreclose in the name of the county, the tax liens embraced in such certificates, and the same proceedings shall be had as when held by an individual: *Provided*, That notice and summons must be served or notice given in a manner reasonably calculated to inform the owner or owners, and any person having a recorded interest in or lien of record upon the property, of the foreclosure action. Either (1) personal service upon the owner or owners and any person having a recorded interest in or lien of record upon the property, or (2) publication once in a newspaper of general circulation, which is circulated in the area of the property and mailing of notice by certified mail to the owner or owners and any person having a recorded interest in or lien of record upon the property, or, if a mailing address is unavailable, personal service upon the occupant of the property, if any, is sufficient. In addition to describing the property as the same is described on the tax rolls, the notice must include the local street address, if any. It shall be the duty of the county treasurer to mail a copy of the published summons, within fifteen days after the first publication thereof, to the treasurer of each city or town within which any property involved in a tax foreclosure is situated, but the treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of any tax sought to be foreclosed. Said certificates of delinquency issued to the county may be issued in one general certificate in book form including all property, and the proceedings to foreclose the liens against said property may be brought in one action and all persons interested in any of the property involved in said proceedings may be made codefendants in said action, and if unknown may be therein named as unknown owners, and the publication of such notice shall be sufficient service thereof on all persons interested in the property described therein, except as provided above. The person or persons whose name or names appear on the treasurer's rolls as the owner or owners of said property shall be considered and treated as the owner or owners of said property for the purpose of this section, and if upon said treasurer's rolls it appears that the owner or owners of said property are unknown, then said property shall be proceeded against, as belonging to an unknown owner or owners, as the case may be, and all persons owning or claiming to own, or having or claiming to have an interest therein, are hereby required to take notice of said proceedings and of any and all steps thereunder: *Provided*, That, at least thirty days prior to the sale of the property, if such property is shown on the tax rolls under unknown owners or as having an assessed value of three thousand dollars or more, the treasurer shall order or conduct a title search of the property to be sold to determine the legal description of the property to be sold and the record title holder, and if the record title holder or holders differ from the person or persons whose name or names appear on the treasurer's rolls as the owner or

owners, the record title holder or holders shall be considered and treated as the owner or owners of said property for the purpose of this section, and shall be entitled to the notice provided for in this section.

The county treasurer shall not issue certificates of delinquency upon property which is eligible for deferral of taxes under chapter 84.38 RCW but shall require the owner of the property to file a declaration to defer taxes under chapter 84.38 RCW. [1984 c 220 § 19; 1984 c 179 § 2; 1981 c 322 § 4; 1972 ex.s. c 84 § 2; 1961 c 15 § 84.64.050. Prior: 1937 c 17 § 1; 1925 ex.s. c 130 § 117; RRS § 11278; prior: 1917 c 113 § 1; 1901 c 178 § 3; 1899 c 141 § 15; 1897 c 71 § 98.]

Reviser's note: This section was amended by 1984 c 179 § 2 and by 1984 c 220 § 19, 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).

Notice of foreclosure to be given to city treasurer: RCW 35.49.130.

Title 85

DIKING AND DRAINAGE

Chapters

- 85.08** Diking, drainage, and sewerage improvement districts.
- 85.16** Maintenance costs and levies—Diking, drainage, and sewerage improvement districts.

Chapter 85.08

DIKING, DRAINAGE, AND SEWERAGE IMPROVEMENT DISTRICTS

Sections

- 85.08.400 Hearing on schedule—Notice—Levy of assessment—State lands.

85.08.400 Hearing on schedule—Notice—Levy of assessment—State lands. Upon the filing of the schedule of apportionment, the county legislative authority shall fix the time and place for a hearing thereon, which time shall be not more than sixty days from the date of the filing of the schedule. Notice of the hearing shall be given in the manner provided for giving notice of a hearing in RCW 85.08.150. The notice shall fix the time and place of the hearing on the roll, and shall state that the schedule of apportionment showing the amount of the cost of the improvement apportioned to each county, city, town, and piece of property benefited by the improvement is on file in the office of the county legislative authority and is open to public inspection, and shall notify all persons who may desire to object thereto that they may make their objections in writing and file them with the clerk of the county legislative authority at or before the date fixed for the hearing. The notice shall also state that at the time and place fixed and at such other times and places as the hearing may be continued to, the county legislative authority will sit as a board of equalization for the purpose of considering the schedule and at the hearing or hearings will

also consider any objections made thereto, or any part thereof, and will correct, revise, raise, lower, change, or modify the schedule or any part thereof, or set aside the schedule and order that the apportionment be made de novo as to such body shall appear just and equitable, and that at the hearing the board will confirm the schedule as finally approved by them and will levy an assessment against the property described thereon for the amounts as fixed by them. The county legislative authority shall serve by mail, at least ten days before the hearing, upon the commissioner of public lands of the state of Washington a like notice, in duplicate, showing the amount of the cost of the improvements apportioned against all state, school, granted, or other lands owned by the state of Washington in the district. The county legislative authority shall serve a like notice upon the state secretary of transportation showing the amount apportioned against any state primary or secondary highways. Upon receipt of the notice the commissioner of public lands or the secretary of transportation, as the case may be, shall endorse thereon a statement either that he elects to accept or that he elects to contest the apportionment, and shall return the notice, so endorsed, to the county legislative authority. At or before the hearing any person interested may file with the clerk of the county legislative authority written objections to any item or items of the apportionment. [1984 c 7 § 377; 1923 c 46 § 9, part; 1917 c 130 § 32; 1913 c 176 § 30; RRS § 4435-1.]

Reviser's note: The powers and duties of the commissioner of public lands have been transferred to the department of natural resources. See 1957 c 38 §§ 1, 13; RCW 43.30.010, 43.30.130.

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 85.16

MAINTENANCE COSTS AND LEVIES—DIKING, DRAINAGE, AND SEWERAGE IMPROVEMENT DISTRICTS

Sections

85.16.070 Notice of hearing.

85.16.070 Notice of hearing. Notice of the hearing shall be given by publication in the official county newspaper and in such other newspaper published in or near the district as the county legislative authority may in its discretion direct, once a week for two consecutive weeks, the last publication of which shall be not less than seven nor more than fourteen days before the date of the hearing. Also, the county legislative authority shall serve by mail, at least ten days before the hearing, upon the commissioner of public lands of the state two copies of the published notice of the hearing together with a statement showing the amount of benefits determined by the appraisers in respect of each parcel of state, school, granted, or other lands owned by the state in the district, and shall similarly serve notice of the hearing upon the secretary of transportation, with a statement showing the amount of benefits determined by the appraisers in respect of any state primary or secondary highways

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within the district. [1984 c 7 § 378; 1949 c 26 § 6; Rem. Supp. 1949 § 4459-25.]

Reviser's note: The powers and duties of the commissioner of public lands have been transferred to the department of natural resources; see 1957 c 38 §§ 1, 13; RCW 43.30.010, 43.30.130.

Severability—1984 c 7: See note following RCW 47.01.141.

Title 86

FLOOD CONTROL

Chapters

- 86.09** Flood control districts—1937 act.
- 86.15** Flood control zone districts.
- 86.16** Flood control zones by state.
- 86.26** State participation in flood control maintenance.

Chapter 86.09

FLOOD CONTROL DISTRICTS—1937 ACT

Sections

86.09.529 Assessment payment by city, county, subdivision—
Payment by state for highway benefit.

86.09.529 Assessment payment by city, county, subdivision—Payment by state for highway benefit. Assessments charged to any city, town, county, or subdivision thereof shall be paid from any fund of the city, town, county, or subdivision, as its governing body determines. Assessments charged on account of benefits to state highways shall be approved by the secretary of transportation and shall be paid from the state motor vehicle fund. [1984 c 7 § 379; 1937 c 72 § 177; RRS § 9663E-177. Formerly RCW 86.08.660, part.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 86.15

FLOOD CONTROL ZONE DISTRICTS

Sections

86.15.170 General obligation bonds.

86.15.170 General obligation bonds. The supervisors may authorize the issuance of general obligation bonds to finance any flood control improvement or storm water control improvement and provide for the retirement of the bonds with ad valorem property tax levies. The general obligation bonds may be issued and the bond retirement levies imposed only when the voters of the flood control zone district approve a ballot proposition authorizing both the bond issuance and imposition of the excess bond retirement levies pursuant to Article VIII, section 6 and Article VII, section 2(b) of the state Constitution and RCW 84.52.056. Elections shall be held as provided in RCW 39.36.050. The bonds shall be issued on behalf of the zone or participating zones and be approved by the voters of the zone or participating zones when the improvement has by the resolution, provided in

RCW 86.15.110, been found to be of benefit to a zone or participating zones. The bonds may not exceed an amount, together with any outstanding general obligation indebtedness, equal to three-fourths of one percent of the value of taxable property within the zone or participating zones, as the term "value of the taxable property" is defined in RCW 39.36.015. The bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 62. Prior: 1983 c 315 § 21; 1983 c 167 § 211; 1961 c 153 § 17.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—1983 c 315: See note following RCW 90.03.500.

Liberal construction—**Severability**—1983 c 167: See RCW 39.46.010 and note following.

Chapter 86.16

FLOOD CONTROL ZONES BY STATE

Sections

86.16.095 Repealed.

86.16.095 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 86.26

STATE PARTICIPATION IN FLOOD CONTROL MAINTENANCE

Sections

86.26.007 Flood control assistance account—Establishment—Use.

86.26.010 Administration and enforcement.

86.26.020 Repealed.

86.26.030 Repealed.

86.26.040 Duties of local engineer—Approval of plans, etc., by department of ecology.

86.26.050 Projects in which state will participate—Allocation of funds.

86.26.060 Allocation of funds.

86.26.080 Annual budget reports of municipal corporations—Allocation of funds.

86.26.090 Scope of maintenance in which state will participate.

86.26.100 Agreement as to participation—Limit on amount.

86.26.105 Comprehensive flood control management plan—Requirements—Time for completion.

86.26.110 Repealed.

86.26.007 Flood control assistance account—Establishment—Use. The flood control assistance account is hereby established in the general fund. At the beginning of each biennium after June 30, 1985, the state treasurer shall transfer from the general fund to the flood control assistance account an amount of money which, when combined with money remaining in the account from the previous biennium, will equal four million dollars. Moneys in the flood control assistance account may be spent only after appropriation for a specified list of projects under this chapter. [1984 c 212 § 1.]

86.26.010 Administration and enforcement. The department of ecology shall have charge for the state of

the administration and enforcement of all laws relating to flood control. [1984 c 212 § 2; 1951 c 240 § 3.]

86.26.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

86.26.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

86.26.040 Duties of local engineer—Approval of plans, etc., by department of ecology. Whenever state grants under this chapter are used in a flood control maintenance project, the engineer of the county within which the project is located shall approve all plans for the project and shall supervise the work. The approval of such plans, construction and expenditures by the department of ecology, in consultation with the department of fisheries and the department of game, shall be a condition precedent to state participation in the cost of any project. [1984 c 212 § 3; 1951 c 240 § 6.]

86.26.050 Projects in which state will participate—Allocation of funds. State participation shall be in such flood control maintenance projects as are affected with a general public and state interest, as differentiated from a private interest, and as are likely to bring about public benefits commensurate with the amount of state funds allocated thereto. No participation may occur with a county or other municipal corporation unless the director of ecology makes a finding that the county, city, or town having planning jurisdiction over the area where the flood control maintenance project will be engaged in flood plain management activities, on the one hundred year flood plain surrounding such area, that are adequate to protect or preclude flood damage to structures, works, and improvements that may be built within its planning jurisdiction on such flood plain after the request for state participation has been made, including restriction of land uses within a river's meander belt or floodway to only flood-compatible uses. No participation may occur with a county or other municipal corporation unless the county engineer of the county within which the flood control maintenance project is located certifies that a comprehensive flood control management plan has been completed and adopted by the appropriate local authority, or is being prepared for all portions of the river basin or other area, within which the project is located in that county, that are subject to flooding with a frequency of one hundred years or less. Such participation shall be made from grants made by the department of ecology from the flood control assistance account. [1984 c 212 § 4; 1951 c 240 § 7.]

86.26.060 Allocation of funds. Grants for flood control maintenance shall be so employed that as far as possible, funds will be on hand to meet unusual, unforeseeable and emergent flood conditions. Allocations by the department of ecology, for emergency purposes, shall in each instance be in amounts which together with

funds provided by local authority, if any, under reasonable exercise of its emergency powers, shall be adequate for the preservation of life and property, and with due regard to similar needs elsewhere in the state. [1984 c 212 § 5; 1951 c 240 § 8.]

86.26.080 Annual budget reports of municipal corporations—Allocation of funds. Any municipal corporation intending to seek state participating funds shall, within thirty days after final adoption of its annual budget for flood control purposes, report the amount thereof, to the engineer of the county within whose boundaries the municipal corporation lies. The county engineer shall submit such reports, together with reports from the county itself, to the department of ecology. On the basis of all such budget reports received, the department may thereupon prepare a tentative and preliminary plan for the orderly and most beneficial allocation of funds from the flood control assistance account for the ensuing calendar year. Soil conservation districts shall be exempted from the provisions of this section. [1984 c 212 § 6; 1951 c 240 § 10.]

86.26.090 Scope of maintenance in which state will participate. The state shall participate with eligible local authorities in maintaining and restoring the normal and reasonably stable river and stream channel alignment and the normal and reasonably stable river and stream channel capacity for carrying off flood waters with a minimum of damage from bank erosion or overflow of adjacent lands and property; and in restoring, maintaining and repairing natural conditions, works and structures for the maintenance of such conditions. The state shall likewise participate in the restoration and maintenance of natural conditions, works or structures for the protection of lands and other property from inundation or other damage by the sea or other bodies of water. Funds from the flood control assistance account shall not be available for maintenance of works or structures maintained solely for the detention or storage of flood waters. [1984 c 212 § 7; 1951 c 240 § 11.]

86.26.100 Agreement as to participation—Limit on amount. State participation in the cost of any flood control maintenance project shall be provided for by a written memorandum agreement between the director of ecology and the legislative authority of the county submitting the request, which agreement, among other things, shall state the estimated cost and the percentage thereof to be borne by the state. In no instance, except on emergency projects, shall the state's share exceed one-half the cost of the project. [1984 c 212 § 8; 1951 c 240 § 12.]

86.26.105 Comprehensive flood control management plan—Requirements—Time for completion. A comprehensive flood control management plan shall determine the need for flood control work, consider alternatives to in-stream flood control work, identify and consider potential impacts of in-stream flood control

work on the state's in-stream resources, and identify the river's meander belt or floodway. A comprehensive flood control management plan shall be completed and adopted within at least three years of the certification that it is being prepared, as provided in RCW 86.26.050.

If after this three-year period has elapsed such a plan has not been completed and adopted, grants for flood control maintenance shall not be made until a plan is completed and adopted by the appropriate local authority. These limitations on grants shall not preclude allocations for emergency purposes made pursuant to RCW 86.26.060. [1984 c 212 § 9.]

86.26.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 87 IRRIGATION

Chapters

87.03 Irrigation districts generally.

Chapter 87.03

IRRIGATION DISTRICTS GENERALLY

Sections

87.03.016	District may provide street lighting—Limitations.
87.03.018	Creation of legal authority to carry out powers—Method—Indebtedness.
87.03.085	Post-organization district elections—Election boards—Notice.
87.03.435	Construction work—Bonds—Notice—Bids—Contracts.
87.03.460	Compensation and expenses of directors, officers, employees.
87.03.810	Lump sum payment to district for irrigable lands acquired for highway purposes.
87.03.815	Lump sum payment to district for irrigable lands acquired for highway purposes—Order relieving further district assessments.

87.03.016 District may provide street lighting—Limitations. In addition to other powers conferred by law, an irrigation district is authorized to construct, purchase, lease, or otherwise acquire, maintain, and operate a system for lighting public streets and highways and to enter into a contract or contracts with electric utilities, either public or private, to provide that service. However, no contract entered into by the board for providing street lighting for a period exceeding ten years is binding upon the district unless ratified by a majority vote of the electors of the district at an election called, held, and canvassed for that purpose in the same manner as provided by law for district bond elections.

The authority granted by this section applies only to an irrigation district that has begun the construction, purchase, lease, or acquisition of a street lighting system by January 1, 1984, or has entered into a contract for that service by that date. [1984 c 168 § 1.]

87.03.018 Creation of legal authority to carry out powers—Method—Indebtedness. Two or more irrigation districts may create a separate legal authority to carry out any or all of the powers described in RCW 87.03.015. To enable such a legal authority to carry out its delegated powers, the irrigation districts creating the authority may assign, convey, or otherwise transfer to it any or all of their respective property, rights, or obligations, including, without limitation, the power to issue revenue obligations and the power of condemnation. Such a legal authority shall be created and organized by contract in the manner described in chapter 39.34 RCW and shall be a separate legal entity.

A separate legal authority shall only have power to incur indebtedness that is repayable from rates, tolls, charges, or contract payments for services or electricity provided by the authority and to pledge such revenues for the payment and retirement of indebtedness issued for the construction or acquisition of hydroelectric facilities. An authority shall not have power to levy taxes or to impose assessments for the payment of obligations of the authority. Every bond or other evidence of indebtedness issued by an authority shall provide (1) that repayment shall be limited solely to the revenues of the authority; and (2) that no member of the authority shall be obligated to repay directly or indirectly any obligation of the authority except to the extent of fair value for services actually received from the authority. No member may pledge its revenues to support the issuance of revenue bonds or other indebtedness of an authority. [1984 c 168 § 5; 1981 c 62 § 1.]

87.03.085 Post-organization district elections—Election boards—Notice. Fifteen days before any election held under this chapter, subsequent to the organization of any district, the secretary of the board of directors shall cause notices to be posted in three public places in each election precinct, of the time and place of holding the election, and shall also post a general notice of the same in the office of the board, which shall be established and kept at some fixed place to be determined by the board, specifying the polling places of each precinct. Prior to the time for posting the notices, the board must appoint for each precinct, from the electors thereof, one inspector and two judges, who shall constitute a board of election for the precinct. If the board fails to appoint a board of election, or the members appointed do not attend at the opening of the polls on the morning of election, the electors of the precinct present at that hour may appoint the board, or supply the place of an absent member thereof. The board of directors must, in its order appointing the board of election, designate the house or place within the precinct where the election must be held. However, in any irrigation district that is less than two hundred thousand acres in size and is divided into director divisions, the board of directors in its discretion may designate one polling place within the district to serve more than one election precinct. If the board of directors does designate a single polling place for more than one election precinct, then the election officials appointed by the board of directors may

serve more than one election precinct and the election officials may be electors of any of the election precincts for which they are the election board. [1984 c 168 § 2; 1889-90 p 674 § 5; RRS § 7422. Formerly RCW 87.01.140.]

87.03.435 Construction work—Bonds—Notice—Bids—Contracts. Any person to whom a contract may have been awarded for the construction of a canal or any of the works of the district, or any portion thereof, or for the furnishing of labor or material, shall enter into a bond with good and sufficient sureties, to be approved by the board of directors, payable to the district for its use, for at least twenty-five percent of the amount of the contract price, conditioned for the faithful performance of said contract, and with such further conditions as may be required by law in the case of contracts for public work, and as may be required by resolution of the board. All works shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. Whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published in a newspaper in the county in which the office of the board is situated, and in any other newspaper which may be designated by the board, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may proceed to construct the work under its own superintendence: *Provided*, That the provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material: *Provided further*, That the provisions of this section shall not apply in the case of any contract between the district and the United States. [1984 c 168 § 3; 1915 c 179 § 17; 1913 c 165 § 18; 1895 c 165 § 21; 1889-90 p 689 § 35; RRS § 7452. Formerly RCW 87.08.020.]

Official paper for publication: RCW 87.03.020.

Public contracts—Contractor's bond: Chapter 39.08 RCW.

87.03.460 Compensation and expenses of directors, officers, employees. The directors shall each receive not to exceed forty dollars per day in attending meetings and while performing other services for the district, to be fixed by resolution and entered in the minutes of their proceedings, and in addition thereto their reasonable expenses in accordance with chapter 42.24 RCW. The board shall fix the compensation of the secretary and all other employees. [1984 c 168 § 4; 1980 c 23 § 1; 1979 c 83 § 3; 1975 1st ex.s. c 163 § 2; 1965 c 16 § 1; 1951 c 189 § 1; 1919 c 180 § 14; 1917 c 162 § 8; 1895 c 165 §

23; 1889-90 p 692 § 39; RRS § 7456. Formerly RCW 87.08.100.]

87.03.810 Lump sum payment to district for irrigable lands acquired for highway purposes. Whenever lands situated in an irrigation district are acquired by the department of transportation, and the lands, at the time of their acquisition by the department of transportation, were irrigable and were being served or were capable of being served by facilities of the district to the same extent and in the same manner as lands of like character held under private ownership were served, the department of transportation, as part of the cost and expense of the acquisition of rights of way and with funds available for the acquisition and at the time of the acquisition, shall make a lump sum payment to the irrigation district in an amount that is:

(1) Sufficient to pay the pro rata share of the district's bonded indebtedness, if any, and the pro rata share of the district's contract indebtedness to the United States or to the state of Washington, if any, allocable to the lands, plus interest on the pro rata share if the indebtedness is not callable in advance of maturity; and

(2) Further, sufficient to pay any deferred installments of local improvement district assessments against the lands, if any; and

(3) Further, sufficient to produce, if invested at an annual rate of interest equivalent to that set forth in current tables issued by the state insurance commissioner, a sum of money equal to the annual increase in operation and maintenance costs against remaining lands in the district resulting from the severance from the district of the lands thus acquired by the department of transportation. For the purposes of determining the amount of the lump sum payment, the annual maintenance and operation assessment of the district shall be considered to be the average for the ten years, or so many years as the district has assessment experience if less than ten years, preceding the date of acquisition. [1984 c 7 § 380; 1959 c 303 § 1. Formerly RCW 87.01.300.]

Severability—1984 c 7: See note following RCW 47.01.141.

87.03.815 Lump sum payment to district for irrigable lands acquired for highway purposes—Order relieving further district assessments. Upon the department of transportation making the lump sum payment to the district under RCW 87.03.810, the district shall make and enter an order relieving the lands from further district assessments for the delivery of water to the lands. [1984 c 7 § 381; 1959 c 303 § 2. Formerly RCW 87.01.310.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 88

NAVIGATION AND HARBOR IMPROVEMENTS

Chapters

- 88.02 Watercraft registration.**
- 88.16 Pilotage act.**
- 88.28 Obstructions in navigable waters.**
- 88.32 River and harbor improvements.**

Chapter 88.02

WATERCRAFT REGISTRATION

Sections

- 88.02.025 Registration of vessels numbered under the federal boat safety act.
- 88.02.030 Exceptions from vessel registration.
- 88.02.080 Duty of operator involved in collision, accident, or other casualty—Immunity from liability of persons rendering assistance.
- 88.02.110 Penalties—Disposition of moneys collected—Enforcement authority.

88.02.025 Registration of vessels numbered under the federal boat safety act. (1) A vessel numbered in this state under the federal boat safety act need not register under chapter 88.02 RCW until the earlier of: (a) One year from the date this state's vessel numbering system is approved under the federal boat safety act; or (b) the expiration date of the certificate of number issued for the vessel under the federal boat safety act. At the time of registration under chapter 88.02 RCW, the amount of excise tax due under chapter 82.49 RCW shall include amounts which would have been due under that chapter if the vessel had been registered at the time otherwise required under chapter 88.02 RCW.

(2) As used in this section, "federal boat safety act" means the federal boat safety act of 1971 (85 Stat. 213; 46 U.S.C. 1451 et seq.). [1984 c 250 § 3.]

88.02.030 Exceptions from vessel registration. Vessel registration is required under this chapter except for the following:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels owned by a resident of a country other than the United States if the vessel is not physically located upon the waters of this state for a period of more than sixty days;

(4) Vessels owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state: *Provided*, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter;

- (5) Vessels used as a ship's lifeboat;
- (6) Vessels equipped with propulsion machinery of less than ten horse power that:
 - (a) Are owned by the owner of a vessel for which a valid vessel number has been issued;
 - (b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and
 - (c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;
- (7) Vessels under sixteen feet in overall length which have no propulsion machinery of any type;
- (8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;
- (9) Vessels which are temporarily in this state undergoing repair or alteration;
- (10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States; and
- (11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States. [1984 c 250 § 2; 1983 2nd ex.s. c 3 § 44; 1983 c 7 § 16.]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.
Partial exemption from ad valorem taxes of ships and vessels exempt from excise tax under RCW 88.02.030(10): RCW 84.36.080.

88.02.080 Duty of operator involved in collision, accident, or other casualty—Immunity from liability of persons rendering assistance. (1) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give his or her name, address, and the identification of the operator's vessel to the state parks and recreation commission and any person injured and to the owner of any property damaged: *Provided*, That this requirement shall not apply to operators of vessels when they are participating in an organized competitive event covered by a permit issued by the United States coast guard. These duties are in addition to any duties otherwise imposed by law.

(2) Any person who complies with subsection (1) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances. [1984 c 183 § 1; 1983 2nd ex.s. c 3 § 48.]

Casualty and accident reports—Confidentiality—Use as evidence: RCW 43.51.402.

88.02.110 Penalties—Disposition of moneys collected—Enforcement authority. (1) A violation of this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes is a misdemeanor punishable only by a fine not to exceed one hundred dollars per vessel for the first violation. Subsequent violations in the same year are subject to the following fines:

- (a) For the second violation, a fine of two hundred dollars per vessel;
 - (b) For the third and successive violations, a fine of four hundred dollars per vessel.
- (2) After subtraction of court costs and administrative collection fees, moneys collected under this section shall be credited to the current expense fund of the arresting jurisdiction.

(3) All law enforcement officers shall have the authority to enforce this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes within their respective jurisdictions: *Provided*, That a city, town, or county may contract with a fire protection district for such enforcement and fire protection districts are authorized to engage in such activities. [1984 c 183 § 2; 1983 2nd ex.s. c 3 § 50; 1983 c 7 § 22.]

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

**Chapter 88.16
PILOTAGE ACT**

Sections	
88.16.020	Board of pilotage commissioners—Office—Compensation and travel expenses of members—Employment of personnel. (Effective July 1, 1985.)
88.16.116	Repealed.
88.16.117	Repealed.
88.16.118	Limiting liability of pilots—Liability of vessel, owner, or operator not limited.

88.16.020 Board of pilotage commissioners—Office—Compensation and travel expenses of members—Employment of personnel. (Effective July 1, 1985.) The department of transportation of the state of Washington shall be the office of the board, and all records shall be kept in the office of the department. Each pilotage commissioner shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060, to be paid out of the pilotage account on vouchers approved by the chairperson of the board: *Provided*, That the sums received under this section shall not be considered compensation earnable as defined pursuant to RCW 41.40.010(8).

The board is authorized to employ personnel, pursuant to chapter 41.06 RCW, as necessary to conduct the business of the board. [1984 c 287 § 111; 1977 ex.s. c 337 § 3; 1977 ex.s. c 151 § 74; 1975-'76 2nd ex.s. c 34 §

178; 1967 c 15 § 1; 1941 c 184 § 1; 1935 c 18 § 2; RRS § 9871-2.]

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

Severability—1977 ex.s. c 337: See note following RCW 88.16.005.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

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

88.16.116 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

88.16.117 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

88.16.118 Limiting liability of pilots—Liability of vessel, owner, or operator not limited. A ship's pilot licensed to act as such by the state of Washington shall not be liable for damages in excess of the amount of five thousand dollars for damages or loss occasioned by the pilot's errors, omissions, fault, or neglect in the performance of pilotage services, except as may arise by reason of the wilful misconduct or gross negligence of the pilot.

When a pilot boards a vessel, that pilot becomes a servant of the vessel and its owner and operator. Nothing in this section exempts the vessel, its owner or operator from liability for damage or loss occasioned by that ship to a person or property on the ground that (1) the ship was piloted by a Washington state licensed pilot, or (2) the damage or loss was occasioned by the error, omission, fault, or neglect of a Washington state licensed pilot. [1984 c 69 § 1.]

Chapter 88.28

OBSTRUCTIONS IN NAVIGABLE WATERS

Sections

88.28.055 Closure of Camas Slough.

88.28.055 Closure of Camas Slough. The department of transportation may for highway purposes close off by fill or embankment all water transportation on Camas Slough, a part of the Columbia River extending from a point of land at the confluence of the left bank of the Washougal River and the right bank of the Columbia River to the land on Lady Island with the axis or center line of the embankment being more particularly described as a line bearing south seventy-six degrees (76°), fifty-one and one-half minutes (51 1/2') west from a point; said point being located on the line between section 11 and section 14 and distant approximately 520 feet westerly from the corner common to sections 11, 12, 13 and 14, all situate in township 1 north, range 3 east, W.M. The department shall construct in the fill, at or near the channel of the slough, an opening of sufficient dimensions to allow normal flow of water during the low water period or such opening as may be required or approved by the Corps of Engineers, United States Army. [1984 c 7 § 382; 1955 c 174 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Chapter 88.32

RIVER AND HARBOR IMPROVEMENTS

Sections

88.32.250 Joint planning for improvement of navigable river—Contract—Joint board to control and direct work.

88.32.250 Joint planning for improvement of navigable river—Contract—Joint board to control and direct work. The joint participation shall be under a contract in writing made in the names of the county, port district, and city, under ordinance or resolution that provides the nature and extent of the work, the extent of the participation of the parties, the division of the costs, and method of payment. The costs shall be paid from any funds of the county, city, or port district designated in the contract.

The control and direction of the work shall be under a joint board consisting of one or more representatives of each party to the contract, as may be agreed upon by the parties. The representatives of the respective parties shall be appointed by the governing body of the respective parties. The joint board shall employ such help and services as may be required and fix the compensation to be paid for the services. The joint board shall consult with the corps of engineers, department of the army, and with the state secretary of transportation and the state director of ecology in furtherance of federal and state of Washington interests in the purposes of RCW 88.32.240 and 88.32.250. [1984 c 7 § 383; 1951 c 33 § 2.]

Severability—1984 c 7: See note following RCW 47.01.141.

Title 89

RECLAMATION, SOIL CONSERVATION AND LAND SETTLEMENT

Chapters

89.08 Conservation districts.

89.30 Reclamation districts of one million acres.

Chapter 89.08

CONSERVATION DISTRICTS

Sections

89.08.040 Members—Compensation and travel expenses—Records, rules, hearings, etc. (Effective July 1, 1985.)

89.08.040 Members—Compensation and travel expenses—Records, rules, hearings, etc. (Effective July 1, 1985.) Members 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 incurred in the discharge of their duties.

The commission shall keep a record of its official actions, shall adopt a seal, which shall be judicially noticed, and may perform such acts, hold such public

hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under *this 1973 amendatory act. The state department of ecology is empowered to pay the travel expenses of the elected and appointed members of the state conservation commission, and the salaries, wages and other expenses of such administrative officers or other employees as may be required under the provisions of this chapter. [1984 c 287 § 112; 1975-'76 2nd ex.s. c 34 § 179; 1973 1st ex.s. c 184 § 5; 1961 c 240 § 4; 1955 c 304 § 4. Prior: 1951 c 216 § 4; 1949 c 106 § 1, part; 1939 c 187 § 4, part; Rem. Supp. 1949 § 10726-4, part.]

*Reviser's note: "This 1973 amendatory act", see note following RCW 89.08.020.

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.

Chapter 89.30

RECLAMATION DISTRICTS OF ONE MILLION ACRES

Sections

89.30.400	Debt limit—General.
89.30.403	Exceeding debt limit—Procedure.
89.30.406	Repealed.
89.30.409	Repealed.
89.30.412	General obligation bonds—Authorized.
89.30.415	through 89.30.424 Repealed.

89.30.400 Debt limit—General. Reclamation districts created under the provisions of this chapter are hereby authorized and empowered to contract indebtedness for district purposes in any manner, when they deem it advisable, not exceeding an amount, together with the existing nonvoter approved indebtedness of such district, of three-fourths of one percent of the value of the taxable property in such district, as the term "value of the taxable property" is defined in RCW 39.36.015. [1984 c 186 § 63; 1970 ex.s. c 42 § 38; 1927 c 254 § 134; RRS § 7402-134. Formerly RCW 89.26.060.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

89.30.403 Exceeding debt limit—Procedure. Such reclamation districts may contract indebtedness for strictly district purposes in excess of the amount specified in the preceding section, but not exceeding in amount, together with existing indebtedness, two and one-half percent of the value of the taxable property, as the term "value of the taxable property" is defined in RCW 39.36.015, whenever three-fifths of the voters therein voting at an election held for that purpose assent thereto. Elections shall be held as provided in RCW 39.36.050. [1984 c 186 § 64; 1970 ex.s. c 42 § 39; 1927 c 254 § 135; RRS § 7402-135. Formerly RCW 89.26.070.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

89.30.406 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

89.30.409 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

89.30.412 General obligation bonds—Authorized. The reclamation district board shall have authority to evidence district indebtedness by the issuance and sale of negotiable general obligation bonds of the district. Such bonds shall be issued and sold in accordance with chapter 39.46 RCW. [1984 c 186 § 65; 1983 c 167 § 250; 1927 c 254 § 138; RRS § 7402-138. Formerly RCW 89.26.200.]

Purpose—1984 c 186: See note following RCW 39.46.110.

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

89.30.415 through 89.30.424 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 90

WATER RIGHTS—ENVIRONMENT

Chapters

90.22	Minimum water flows and levels.
90.28	Miscellaneous rights and duties.
90.54	Water resources act of 1971.
90.58	Shoreline management act of 1971.

Chapter 90.22

MINIMUM WATER FLOWS AND LEVELS

Sections

90.22.020	Establishment of minimum water flows or levels— Hearings—Notice—Regulations.
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90.22.020 Establishment of minimum water flows or levels—Hearings—Notice—Regulations. Flows or levels authorized for establishment under RCW 90.22-.010, or subsequent modification thereof by the department shall be provided for through the adoption of rules. Before the establishment or modification of a water flow or level for any stream or lake or other public water, the department shall hold a public hearing in the county in which the stream, lake, or other public water is located. If it is located in more than one county the department shall determine the location or locations therein and the number of hearings to be conducted. Notice of the hearings shall be given by publication in a newspaper of general circulation in the county or counties in which the stream, lake, or other public waters is located, once a week for three consecutive weeks before the hearing. The notice shall include the following:

(1) The name of the stream, lake, or other water source under consideration;

(2) The proposed levels or flows to be established, if the department has made a determination before the hearing;

(3) The place and time of the hearing;

(4) A statement that any person, including any private citizen or public official, may present his views either orally or in writing.

Notice of the hearing shall also be served upon the administrators of the departments of fisheries, social and health services, and natural resources, the game commission, and the department of transportation. [1984 c 7 § 384; 1969 ex.s. c 284 § 4.]

Severability—1984 c 7: See note following RCW 47.01.141.

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

Chapter 90.28

MISCELLANEOUS RIGHTS AND DUTIES

Sections

90.28.010 Right to back and hold waters over roads, streets and alleys—Procedure.

90.28.010 Right to back and hold waters over roads, streets and alleys—Procedure. The department of transportation may, in its sole discretion, grant to any person or corporation the right, privilege, and authority to perpetually back and hold the waters of any lake, river, stream, slough, or other body of water, upon or over any state, county, or permanent highway or road, or any street or alley within the limits of any town or city of the fourth class, or any part thereof, and overflow and inundate the same whenever the director of ecology deems it necessary for the purpose of erecting, constructing, maintaining, or operating any water power plant, reservoir, or works for impounding water for power purposes, irrigation, mining, or other public use and shall so certify to the department of transportation. The decision of the department of transportation, in the absence of bad faith, arbitrary, capricious, or fraudulent action, is conclusive. But the right shall not be granted until it has been heretofore or is hereafter determined in a condemnation suit instituted by the person or corporation desiring to obtain the right or rights in the county wherein is situated that part of the road, highway, street, or alley so to be affected that the use for which the grant is sought is a public use, nor until there is filed with the clerk of the court in which the order or decree of public use was entered a bond or undertaking signed by the person or corporation seeking the grant, executed by a surety company authorized to do business in this state, conditioned to pay all costs and expenses of every kind and description connected with and incident to the relocation and reconstruction of any such highway, road, street, or alley, the same to be of substantially the same type and grade of construction as that of the highway, road, street, or alley to be overflowed or inundated, including any such relocation, reconstruction, and maintenance costs and expenses as may arise within a period of eighteen months after the new highway, road, street, or

alley has been opened in its entirety to public travel, and also including any and all damages for which the state, county, city, or town may be liable because of the vacation of any such highway, road, street, or alley and the relocation thereof in the manner provided herein and to save harmless the state, county, city, or town from the payment of the same or any part thereof. The bond shall be in a penal sum of double the estimated amount of the expenses, costs, and damages referred to above. In the case of a state highway the estimate shall be made by the department of transportation. In case of a county road or permanent highway the estimate shall be made by the county legislative authority, and in the case of a street or alley of a town or city of the fourth class the estimate shall be made by the city or town council. The bond shall be approved by the department of transportation when the road to be affected is a state highway, and in all other cases by a judge of the superior court in which the order or decree of public use was entered. In the condemnation suit the state of Washington shall be made a party defendant when the road affected is a state highway. If the road is a county road or permanent highway the county in which the road or permanent highway is situated shall be made a party defendant, and when any street or alley in any town or city of the fourth class is affected the city or town shall be made a party defendant. Any person or corporation may acquire the right to overflow as against the owner of the fee in any such highway, road, street, or alley by making the owner of the fee or of any part thereof a party defendant in the condemnation suit provided for herein or by instituting a separate condemnation suit against any such owner. The damages sustained by any such owner as a result of the overflow of any such highway, road, street, or alley shall be determined as in other condemnation cases, separate and apart from any damage sustained by the state, county, city, or town. [1984 c 7 § 385; 1929 c 154 § 1; 1927 c 202 § 1; RRS § 7354-1.]

Severability—1984 c 7: See note following RCW 47.01.141.

Eminent domain by corporations: Chapter 8.20 RCW.

Private ways of necessity: Chapter 8.24 RCW.

Chapter 90.54

WATER RESOURCES ACT OF 1971

Sections

90.54.130 Land use management policy modifications—Advisory recommendations.
90.54.140 Protection of ground water aquifers if sole drinking water source.
90.54.160 Department to report on dam safety.

90.54.130 Land use management policy modifications—Advisory recommendations. The department of ecology may recommend land use management policy modifications it finds appropriate for the further protection of ground and surface water resources in this state. Such advisory recommendations may be made to other state regulatory agencies, local governments, water systems, and other appropriate bodies. [1984 c 253 § 4.]

90.54.140 Protection of ground water aquifers if sole drinking water source. The legislature hereby declares that the protection of ground water aquifers which are the sole drinking water source for a given jurisdiction shall be of the uppermost priority of the state department of ecology, department of social and health services, and all local government agencies with jurisdiction over such areas. In administration of programs related to the disposal of wastes and other practices which may impact such water quality, the department of ecology, department of social and health services, and such affected local agencies shall explore all possible measures for the protection of the aquifer, including any appropriate incentives, penalties, or other measures designed to bring about practices which provide for the least impact on the quality of the ground water. [1984 c 253 § 5.]

90.54.160 Department to report on dam safety. The department of ecology shall report to the legislature on the last working day of December of 1984, 1985, and 1986, and thereafter as deemed appropriate by the department, on dam facilities that exhibit safety deficiencies sufficient to pose a significant threat to the safety of life and property. The report shall identify the owner or owners of such facilities, detail the owner's ability and attitude towards correcting such deficiencies, and provide an estimate of the cost of correcting the deficiencies if a study has been completed. [1984 c 83 § 1.]

Chapter 90.58

SHORELINE MANAGEMENT ACT OF 1971

Sections

90.58.140 Development permits—Grounds for granting—Administration by local government, conditions—Applications—Notices—Rescission—When permits not required—Approval when permit for variance or conditional use.

90.58.140 Development permits—Grounds for granting—Administration by local government, conditions—Applications—Notices—Rescission—When permits not required—Approval when permit for variance or conditional use. (1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the provisions of chapter 90.58 RCW.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) The local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that:

(a) A notice of such an application is published at least once a week on the same day of the week for two consecutive weeks in a legal newspaper of general circulation within the area in which the development is proposed; and

(b) Additional notice of such an application is given by at least one of the following methods:

(i) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(iii) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive a copy of the final order concerning an application as expeditiously as possible after the issuance of the order, may submit the comments or requests for orders to the local government within thirty days of the last date the notice is to be published pursuant to subsection (a) of this subsection. The local government shall forward, in a timely manner following the issuance of an order, a copy of the order to each person who submits a request for the order.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until thirty days from the date the final order was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within thirty days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington, the construction may begin after thirty days from the date of filing;

(b) If a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within thirty days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.04 RCW, the permittee may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction may begin pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would not involve a significant, irreversible damaging of the environment, the court may allow the permittee to begin the construction pursuant to the approved or revised permit as the court deems appropriate. The court may require the permittee to post bonds, in the name of the local government that issued the permit, sufficient to remove the substantial development or to restore the environment if the permit is ultimately disapproved by the courts, or to alter the substantial development if the alteration is ultimately ordered by the courts. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If a permit is granted by the local government and the granting of the permit is appealed directly to the superior court for judicial review pursuant to the proviso in RCW 90.58.180(1), the permittee may request the court to remand the appeal to the shorelines hearings board, in which case the appeal shall be so remanded and construction pursuant to such a permit shall be governed by the provisions of subsection (b) of this subsection or may otherwise begin after review proceedings before the hearings board are terminated if judicial review is not thereafter requested pursuant to chapter 34.04 RCW;

If a permittee begins construction pursuant to subsections (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any ruling on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. With regard to a permit other than a permit governed by subsection (12) of this section, "date of filing" as used herein means the date of actual receipt by the department. With regard to a permit for a variance or a conditional use, "date of filing" means the date a decision of the department rendered on the permit pursuant to subsection (12) of this section is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) A permit shall not be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government before April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969; and

(b) The development is completed within two years after June 1, 1971.

(11) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and before April 1, 1971: *Provided*, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (10) of this section, or does not require a permit because of substantial development occurred before June 1, 1971.

(12) Any permit for a variance or a conditional use by local government under approved master programs must

be submitted to the department for its approval or disapproval. [1984 c 7 § 386; 1977 ex.s. c 358 § 1; 1975-'76 2nd ex.s. c 51 § 1; 1975 1st ex.s. c 182 § 3; 1973 2nd ex.s. c 19 § 1; 1971 ex.s. c 286 § 14.]

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GAME AND GAME FISH

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HORSE RACING COMMISSION

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MENTALLY ILL

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MOTOR VEHICLES

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RICHLAND

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WASHINGTON MODEL TRAFFIC ORDINANCE

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